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NAVAL POSTGRADUATE SCHOOL

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THESIS

AUDITING GOVERNMENT
TRANSPORTATION BILLS

by

Henry P. Karnas

December 1988

Thesis Advisor:

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Auditing Government Transportation Bills

by

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ABSTRACT

This thesis examines the area of transportation bill auditing in the Federal Government. It reviews the history of transportation bill auditing, the mechanics of auditing freight transportation bills, and the various factors that impact on the causes and identification of overcharges. This thesis analyzes the current method of post-payment audits of all government transportation bills by GSA and reviews the ongoing initiatives by DOD to implement pre-payment auditing. It concludes that DOD is paying upwards of \$48 million a year in freight overcharges alone and that pre-payment audits can significantly reduce this amount.

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ABBREVIATIONS AND ACRONYMS

CBL	Commercial Bill of Lading
CFR	Code of Federal Regulations
CONUS	Continental United States
DLA	Defense Logistics Agency
DOD	Department of Defense
EDI	Electronic Data Interchange
EFT	Electronic Funds Transfer
GAO	General Accounting Office
GBL	Government Bill of Lading
GSA	General Services Administration
GT	Guarantee Traffic
GTR	Government Transportation Request
HHG	Household Goods
H.R.	House Resolution
ICC	Interstate Commerce Commission
ITGBL	International (Through) Government Bill of Lading
ITO	Installation Transportation Officer
LTL	Less Than Truck Load
MCLB	Marine Corps Logistics Base
MTMC	Military Traffic Management Command
NAVMTO	Navy Material Transportation Office
NAVSUP	Naval Supply Headquarters
OMB	Office of Management and Budget

OSD	Office of the Secretary of Defense
OTA	Office of Transportation Audits
P.L.	Public Law
SECDEF	Secretary of Defense
SRO	Standing Route Order
TARPS	Transportation Accounts Receivable/Payable System
TL	Truck Load
USAFAC	United States Army Finance and Accounting Center
U.S.C.	United States Code

DEFINITIONS

Accessorial Service - A service rendered by a carrier in addition to the line-haul, such as transit, sorting, cooling, heating, switching, diverting, and reconsigning.

Auditing - The review of freight bills to determine errors. This can be done either before the freight bill is paid (pre-auditing) or after the freight bill is paid (post-auditing).

Agency Tariff - A tariff published by a tariff publishing agency in contrast to an "individual issue" tariff which is published by the carrier. Also referred to as a "bureau tariff."

Bill of Lading - A contract for transportation between the shipper and the carrier. It provides a receipt for the goods tendered to the carrier and forms a basis for freight bill auditing. A "Commercial Bill of Lading" (CBL) is used for commercial shippers and for government shippers if the shipment is \$100 or less and the carrier is authorized to accept a CBL in lieu of a GBL. A "Government Bill of Lading" (GBL) is used for all government shipments except as noted herein. A "International (Through) Government Bill of Lading" (ITGBL) is for joint land-water carrier movements between a domestic and foreign location.

Classification - An alphabetical listing of commodities, the class or rating into which the commodity is placed, and the minimum weight necessary for the rate discount. Used in the class rate structure.

Class Rate - A rate constructed from a classification and a uniform distance system. A class rate is available for any product between any two points, and is almost always listed as cents per hundred pounds.

Commodity Rate - A rate made to move a particular commodity between a few named points due to the special conditions surrounding the movement of that commodity. Normally takes priority over the class rate.

Common Carrier - A carrier that holds itself out to the general public, without discrimination, for the transportation of persons or property for compensation.

Contract Carrier - A for-hire carrier that does not serve the general public, but that serves shippers with whom the carrier has a continuing contract.

Deregulation - Revisions or complete elimination of government regulations controlling transportation.

Electronic Data Interchange - The use of telecommunication lines to transmit data from one point to another. The purpose is to expedite the exchange of information and data, and to eliminate excessive paperwork.

Exemption Rates - Ratings different from those published in the classification.

Freight Bill - The carrier's invoice for transportation charges applicable to the freight shipment.

Freight Claim - A demand on a carrier for reimbursement as to overcharges, or loss, damage, delay, or other act of omission connected with the handling of freight.

Freight Rate - Charge assessed for transporting freight.

Less Than Truck Load (LTL) - A quantity of freight less than that required for the application of a truck load rate. The Military Traffic Management Command (MTMC) defines LTL shipments as shipments of freight weighing less than 10,000 pounds per line item.

Line-Haul - Transportation of freight over carrier routes from point of origin to point of destination, excluding local pickup, delivery, and switching services.

National Motor Freight Classification - A motor tariff containing freight description of a specific or generic nature under which all commodities moving in motor freight service are "rated" or "classed". It prescribes the nature of acceptable outer containers or other forms of shipment, the percentage class rating of TL and LTL movements, as well as governing rules and regulations.

Overcharges - Charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Interstate Commerce Commission (ICC), negotiated contracts, discounted terms, or any other agreement between the shipper and the carrier. If more than one rate applies, overcharges are determined from the lowest of the applicable rates.

Rate Bureau - An organization of carriers legalized under the Reed Bulwinkle Bill for the purpose of establishing agreement on rates. The bureau also publishes the tariffs for the participating carriers.

Rating - A designation which indicates where a specific commodity stands in relation to others for determining class rate application.

Tariff - A publication containing rates, rules, regulations and charges applying to transportation and accessorial services.

Tender - Special rates offered by carriers to transport goods at the reduced government shipping rate under Section 22 of the Interstate Commerce Act.

Traffic Management - The direction, control and supervision of all functions incident to the procurement and use of freight and passenger transportation services from commercial for-hire transportation companies (including rail, highway, air, pipeline, inland waterway, coastal and intercoastal carriers).

I. INTRODUCTION

A. BACKGROUND

Since 1975, the General Services Administration's (GSA) Office of Transportation Audits (OTA) has been the agency responsible for the post-auditing of transportation bills paid by all governmental agencies and for recovery of overcharges paid. The largest single department within the government, responsible for approximately 80% of the total government's transportation cost, is the Department of Defense (DOD).

The post-auditing function performed by GSA has identified overcharges that have continually grown since 1975 due to reasons to be discussed in Chapter V. In FY 1987, GSA identified \$58.088 million in overcharges that were paid by governmental agencies for transportation services [Ref.1]. Assuming, for now, that the overcharges are proportional to transportation costs, the portion of the overcharges paid by DOD was approximately \$46.47 million ($\$58.088\text{M} \times .8$). If these overcharges could be prevented from occurring, the potential savings to the government, in particular DOD, would be substantial, not to mention very attractive in light of continuing pressures to reduce government expenditures and eliminate waste in government spending.

Congressional action since 1986 has resulted in the granting of authority to GSA to conduct pre-payment audits and further, GSA was granted authority to delegate this function down to other governmental bill paying agencies. Effective 1 August, 1988, GSA delegated to the Secretary of Defense the authority to develop and implement a pre-payment audit function for transportation bills paid by the various services. The Navy Material Transportation Office (NAVMTO), U.S. Army Finance and Accounting Center (USAFAC), Marine Corps Logistics Base (MCLB) Albany and Military Traffic Management Command (MTMC) Eastern Area, along with their parent commands, are presently working on such systems.

B. PURPOSE

The purpose of this thesis is to trace the history of transportation bill auditing, including the impact of factors internal and external to government, to determine the benefits to the government, and in particular DOD, in conducting pre-payment audits, and to determine if the methods proposed for conducting this function are adequate and effective. Specifically, the following primary research questions are proposed:

1. What will be the overall savings, both initially and in the long run, and what will be the costs involved in administering the pre-auditing function?
2. Are the methods and procedures proposed in conducting the pre-auditing function effective in terms of correctly identifying overcharges within the time

frames as required by the Prompt Payment Act and the collection of overcharges?

The following secondary research questions must be addressed in order to adequately support and supplement the above primary research questions:

1. Will the pre-auditing function affect the shipper-carrier relationship and the way the two parties conduct normal business, and if so, how?
2. Can the experience and procedures of the commercial shipping sector in this area be applied to DOD?
3. Does DOD have the resources in terms of manpower, experience, coordination and access of required information, and automation to attempt pre-auditing?

C. THESIS APPROACH

1. Scope

This thesis is presented in a three stage approach that addresses the purpose of the research and, specifically, the questions as stated above. First, an historical summary will be presented of governmental action which has affected transportation bill auditing as conducted both by government and private shippers. Included in this stage are the relevant portions of Public Laws, Commissions and Reports as they apply to the auditing function.

Second, an in-depth review on the arguments and issues presented to the 99th Congress which led to authorization for prepayment auditing and final delegation to the various armed services will be discussed. It will look at the data presented to Congress during various hearings in

1986 by the GSA's Office of Transportation Audits (OTA), the arguments made by GSA and the Office of the Secretary of Defense (OSD) on behalf of the pending legislation, the reasons for delayed delegation by GSA to SECDEF, and commercial carriers' responses to the Federal Register notice for implementation of Public Law 99-627. An attempt will be made to establish whether the all-important criterion of "cost-effective or otherwise in the public interest" was adequately determined in delegating the prepayment auditing function down to the individual services.

Third, an analysis of the audit function itself, the various implementation plans, and overall benefits of the pre-payment audit function are presented. Both the mechanics of the various proposed DOD audit plans and transportation auditing in the commercial sector will be discussed and compared. The costs and benefits of the various DOD and commercial audit programs will be explored and an attempt will be made to determine whether DOD's pre-payment audit plans are in fact the most efficient and economical way to conduct this function, and if not, to propose recommended changes.

2. Methodology

Information and data gathered for this thesis were from many sources. Legislative and governmental history, procedures, and issues were gathered from the Federal Register and various Congressional records of hearings. GSA

and DOD procedures, information and data were obtained from both oral and written correspondence with appropriate action officers from GSA, OSD, NAVSUP, MTMC, USAFAC, and NAVMTO. Information concerning the commercial aspect of transportation bill auditing were again obtained by both oral and written correspondence with various carrier and shipper associations, individual carriers and shippers, and through commercial firms conducting freight bill auditing services and software support. Finally, additional information covering a variety of issues directly and indirectly involving freight bill auditing were obtained from various transportation periodicals, books, past theses, and studies conducted by the Logistics Management Institution (LMI).

3. Organization

This thesis is divided into six chapters: an introduction, four research chapters, and a final summary chapter. Chapter II focuses on the historical background and issues leading up to pre-payment auditing. Chapter III looks at the delegation of pre-auditing to GSA and GSA's subsequent delegation to SECDEF on behalf of DOD, including the commercial carriers' concerns on this issue. Chapter IV identifies the mechanics involved in both the post and pre-payment auditing function, examines the methods employed by commercial carriers in conducting freight bill audits, and looks at the effects of deregulation and computers on freight bill auditing. Chapter V analyzes the government agencies and

procedures involved in freight bill auditing, post-auditing as presently conducted by GSA, and initiatives taken to implement pre-auditing and automation within DOD. Chapter VI summarizes the results of the research chapters and provides conclusions and recommendations.

II. HISTORICAL BACKGROUND

A. INTRODUCTION

Since 1887, numerous legislation and government actions in the form of Public Laws, Acts and Commissions have addressed issues which have directly and indirectly impacted on the area of transportation bill audits. This chapter will chronologically trace the history of governmental actions which have impacted (or have the potential to impact) transportation bill auditing, both for the commercial and government shipper, from its earliest origins to the passage of Public Law 99-627 on 7 November, 1986.

B. GOVERNMENT ACTION PRIOR TO 1974

One of the first pieces of legislation to have an impact on governmental freight bill auditing, although not in a direct way, was Section 22 of the original Act to Regulate Commerce. Passed in 1887, the Act allows carriers to make "rate concessions" to the federal government, exempt from ICC regulations [Ref.2:p.101]. The concept has remained in place ever since and is currently stated in the current Code of Federal Regulations for transportation as follows [Ref.3:p.587]:

The provisions of this part shall apply to copies of quotations or tenders made by all common carriers by railroad, including express and sleeping-car companies, by pipeline, by motor vehicle, and by water, and household goods freight forwarders, to the United States Government,

or any agency or department thereof, for the transportation, storage or handling of property or the transportation of persons free or at reduced rates as permitted by 49 U.S.C. 10721, except quotations or tenders which, as indicated by the United States Government or any department or agency thereof to any carrier or carriers, involves information the disclosure of which would endanger the national security.

As will be shown in Chapter V, the ability of the U.S. Government to obtain reduced transportation rates, or tenders, has added to the administrative complexities of auditing government transportation bills.

The Dockery Act of 31 July, 1894, placed the responsibility of auditing government transportation accounts on the Secretary of the Treasury, an executive department of the U.S. Government [Ref.4:p.192]. The Secretary of the Treasury authorized a small group of auditors, known as the "Rate Board", to perform the auditing of transportation accounts under the direction of the Comptroller of the Treasury. The Budget and Accounting Act of 1921 created the General Accounting Office, independent of the executive departments and under the control and direction of the new position of Comptroller General of the United States [Ref.5:p.23]. The offices of the Comptroller and Assistant Comptroller of the Treasury were abolished, and all powers and duties conferred or imposed by law upon the Comptroller of the Treasury and certain auditors and divisions were now vested and imposed upon the General Accounting Office.

Included in this transfer of duties to the newly formed GAO was that of auditing government transportation accounts.

Exercising its newly delegated authority for auditing transportation accounts, significant delays were being experienced by commercial carriers in receiving payment for transportation services. This was because of time required by GAO to perform the very intricate rate audit (pre-audit) [Ref.5:p.48548]. In part due to pressure from carriers to improve GAO's bill paying function, Congress passed the Transportation Act of 1940. Among other transportation related areas, this Act specifically addressed the bill paying issue as follows [Ref.6:p.955]:

Payment for transportation of the United States mail and of persons or property for or on behalf of the United States by any common carrier subject to the Interstate Commerce Act, as amended, or the Civil Aeronautics Act of 1938, shall be made upon presentation of bills therefore, prior to audit or settlement by the General Accounting Office, but the right is hereby reserved to the United States Government to deduct the amount of any overpayment to any such carrier from any amount subsequently found to be due such carrier.

The legally accepted interpretation on two main issues involved in the above paragraph are that: 1) carriers will be paid upon issuance of a bill prior to audit, and 2) bills will be post-audited, and claims for incorrect billings settled, by GAO.

Subsequent legislation prior to 1974 having an effect on transportation bill auditing, or which would influence and/or support later legislation affecting auditing, includes Public

Law 77-560 which relieved certifying and disbursing officers of liability for overpayment of transportation bills subsequently uncovered by the GAO post-audit, the Budget and Accounting Procedures Act of 1950, Public Law 83-108, and Public Law 92-550 which modified the wording of the 1940 Act to expand on the "overcharges" portion and to include a provision for payment of certain transportation services in advance of completion of the service. The Budget and Accounting Procedures Act of 1950 and Public Law 83-108 will be covered in the following discussion on the General Accounting Office Act of 1974.

C. GENERAL ACCOUNTING OFFICE ACT OF 1974

Public Law 93-604, commonly cited as the "General Accounting Office Act of 1974", revised and restated certain functions and duties of the Comptroller General of the United States. Title II of the Act, "Audit of Transportation Payments", amended the Transportation Act of 1940 by substituting the first sentence with [Ref.7:p.1960]:

Payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor prior to audit by the General Services Administration, or his designee.

The key point is that the audit function, which was vested since 1921 with the General Accounting Office (legislative branch), was now transferred to the General Services Administration (executive branch). Title II of this Act also

enacted the transfer of the duties, accounts, responsibilities, personnel, and other administrative functions necessary to perform the audit function from GAO to GSA. GAO would still retain its oversight responsibilities and carriers could request the GAO Comptroller General to review GSA's actions on any claim against the carrier.

The primary argument for the Passage of P.L. 93-604 was to comply with the intent of the "Budget and Accounting Procedures Act of 1950". Specifically, Part II, section 111(c) of the 1950 Act read as follows [Ref.8:p.834]:

The maintenance of accounting systems and the producing of financial reports with respect to the operations of executive agencies, including central facilities for bringing together and disclosing information on the results of the financial operations of the Government as a whole, be the responsibility of the executive branch.

Since transportation services were being budgeted for by executive agencies, procured and paid for by those same agencies, which were also responsible for the accounting of funds expended for those services, it was argued that the executive branch had the implicit responsibility for the auditing of those accounts.

During the various Congressional hearings and reports conducted to review the pending legislation of the transfer of audit authority from GAO to GSA, reference was made to three prior reports which not only addressed the transportation auditing function, but discussed the specific roles of DOD in this area. Public Law 108 in 1952 established

the "Commission on Government Operations". Commonly referred to as the "Hoover Commission", the purpose was to explore avenues to promote efficiency, economy and improved service within the executive branch of Government [Ref.9:p.23]. The subcommittee to investigate transportation matters within the executive branch "noted that neither the military nor the civilian shipping agencies of the Government are conducting proper audits of freight bills" [Ref.10:p.25]. The two recommendations in this area made to Congress in March, 1955 were as follows [Ref.10:p.26]:

Recommendation No. 4

(a) That the Secretary of Defense study and determine whether pre-auditing of Department of Defense transportation bills is feasible and economic.

(b) That the General Services Administration make a similar study and determination with respect to transportation bills of the civilian agencies of the Government.

Recommendation No. 5

That all bills of lading used in connection with Government shipments be audited by the General Accounting Office.

The Joint Agency Transportation Study (JATS), March 1970 and the Joint Transportation Audit Study-DOD and GAO, March 1972, addressed similar issues. The 1970 study was undertaken to alleviate long-standing complaints by common carriers regarding the unwarranted delays in paying for transportation services [Ref.11:p.i]. The study made 58 recommendations for improving the procedures and documents used in conducting the government's transportation business. The recommendations were made across sixteen functional areas, with three

specific recommendations being in the area of audit and settlement of transportation accounts. These three recommendations were as follows [Ref.11:p.27]:

1. That the central GAO audit authority and settlement role be continued.
2. That continued emphasis be placed upon systems development with the objectives of attaining maximum audit coverage through computer and other techniques and minimum manual reviews of individual transactions.
3. That GAO continue to concern itself with transportation audit development efforts in industry and Government, monitor the effects of these efforts on its postaudit role, and assist agencies to undertake the audit effort wherever this is efficient and economical.

As a result of the 1974 Act, recommendation 1 was not taken, recommendation 3 was basically transferred to GSA for action, and recommendation 2 continues to be an ongoing concern for both GSA and DOD as will be noted in subsequent chapters.

Finally, the 1972 joint GAO-DOD study explored the possibility of transferring the DOD portion of transportation bill auditing and settlement within GAO to DOD. This study, completed in March, 1972, established [Ref.12:p.120]:

- a. That the function was then being performed by over 700 GAO professional, technical and clerical personnel, 456 of whom were engaged in auditing and settling Department of Defense payments.
- b. That the total cost (including space and all other resources) incurred in the audit and settlement function related to the Department of Defense traffic was \$6,154,000.00, of which 88 percent was attributed to manpower.

- c. That the transfer of this function, insofar as it related to the Department of Defense, would require 474 additional Department of Defense personnel. It would result in an overall additional requirement for 106 GAO personnel to review agency claims settlements and perform the audit review and overview functions.
- d. Such a transfer would provide no additional significant traffic management benefits.

The study concluded that no advantage would be gained either by DOD or the Government as a whole from decentralizing the audit in this manner [Ref.12:p.59].

All arguments being heard, P.L. 93-604 passed on 2 January, 1975, and effective 12 October, 1975, GSA assumed operational control of post-auditing all Government transportation bills [Ref.7].

D. GOVERNMENT ACTION FROM 1975 TO 1986

During this period, legislation which would have a major impact on the transportation bill paying/audit cycle for both the commercial and government carrier were the "Motor Carrier Act of 1980" and the "Prompt Payment Act of 1982". Before beginning discussion on the "Motor Carrier Act of 1980", the main underlying theme will be the effect deregulation had on the audit function. The "Airline Deregulation Acts" of 1977 and 1978, and the "Staggers Rail Act of 1980" are mentioned here since they deregulated those portions of the transportation industry and would impact on audits conducted on those modes, but the immediate and most noticeable effect for commercial and DOD shippers was for the motor industry.

The following are the key changes brought about by the Motor Carrier Act of 1980 which have affected the transportation audit function [Ref.13:p.205]:

1. A carrier may change rates without their being subject to regulatory suspension, revocation, or revision as long as they are within the "zone of reasonableness", or +/- 10 percent from the previous year's rate.
2. The motor carrier's rate bureau acting as a rate-making and/or approval authority for its members is limited. It provides that antitrust immunity for collective rate-making will expire.
3. Restrictions on the number of customers a contract motor carrier may contact is removed.
4. The ICC is directed to relax a number of operating restrictions handicapping the operations of motor carriers.

With respect to change number 1, the impact on government shipments has been minimal. The government has basically been in a deregulated pricing environment since the 1887 act gave carriers the right to make price concessions to the government, exempt from ICC regulations [Ref.2]. Change 1 affected commercial shipments in that it gave carriers the flexibility to set rates competitively and without strict review by the ICC. Changes 2, 3 and 4 affected both government and commercial shippers in that it opened up new ways to structure rates and allowed almost anyone with a truck to become a licensed carrier. The combined result was, to the freight bill auditor, a complex maze in terms of the increased number of carriers to deal with, an almost endless number of rate structuring schemes (by the cargo's weight,

distance traveled, percentage of retail (tariff rate), discounts, etc., or a combination), and constant changing and updating of rates.

The "Prompt Payment Act of 1982", P.L. 97-177, was to become a major issue in any discussion on pre-auditing since it basically negated the reason for Sect. 322 of the Transportation Act of 1940. As stated previously, Sect. 322 was passed because the payment to carriers for transportation services was being delayed due to the time necessary to conduct a pre-audit. The 1940 Act deleted pre-auditing not for the sake of pre-auditing but because of the time required to perform the function. Proponents of pre-auditing argued that, among other reasons, if a transportation bill could be pre-audited and not violate the requirements of the Prompt Payment Act, the carriers would get paid within a reasonable time and the government would be paying an amount that is nothing more, nothing less than what it owes. The two main provisions in the Prompt Payment Act [Ref.14:p.85] that would have to be taken into account for any prepayment audit are:

1. That the required payment date shall be thirty days after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract.
2. Shall require that, within fifteen days after the date on which any invoice is received, Federal agencies notify the business concern of any defect or impropriety in such invoice would prevent the running of the time period specified in subparagraph (A)(ii)(30 days).

Before the passage of the Prompt Payment Act, the guideline for government agencies in paying all bills is that it be done "promptly".

The last piece of government action enacted prior to the 1986 Congressional hearings on audits of transportation billings, which would affect future discussions in this area, was the "Grace Commission". On June 30, 1982, President Reagan signed Executive Order 12369 formally establishing the President's Private Sector Survey on Cost Control (PPSSCC) in the Executive Branch of the Federal Government [Ref.15:p.1]. Commonly referred to as the Grace Commission, one of its purposes was to "identify opportunities for increased efficiency and reduced costs achievable by executive action or legislation" [Ref.15]. As did the 1952 "Hoover Commission", this commission also investigated ways for possible cost effective and efficient improvements in the government's transportation bill post-auditing function.

In one of its recommendations on the Office of the Secretary of Defense, the task force made mention of the fact that DOD is the largest government procurer of transportation services and has the expertise to administer the audit function. The following is the report's recommendation in this area [Ref.15]:

OSD 38-1: The post-payment audit of freight bills function should be returned to the processing agencies, who are most knowledgeable in the unique characteristics of their local procurement operations and who can best oversee the accumulation of the necessary data to allow

for an efficient post-payment audit. These agencies should in turn subcontract the audit function, as is normal in private industry, to commission auditors, who are generally regarded by the private sector as being aggressive and efficient in their audit functions. To provide additional incentive to ensure an accurate and thorough post-payment audit, funds recovered should be channeled back into the transportation procurement organizations and be reflected as management efficiencies in the organizational and budget review function of these organizations.

The OSD task force projected an annual savings based on a 2 percent freight claim recovery opportunity. Using FY 83 figures for DOD expenditures on transportation services (\$3.6 billion), the task force projections of 2 percent recovery would yield a savings of \$72.0 million annually (gross, not including costs associated in doing the audits).

A separate task force, The Travel and Traffic Management Committee, looked at the government's freight transportation system in two areas: traffic management and transportation audit. The main issue of the traffic management study was "Are the government's efforts to create automated transportation procurement and traffic management adequate from a cost reduction and cost-efficiency standpoint?" [Ref.16:p.37]. The task force noted that the government was lagging behind the commercial sector in terms of fully automating the traffic management function and as a result, could not take full advantage of savings due to government's huge freight volume. The task force also discussed the need for compatibility, expandability and integration of all traffic functions in whatever system(s) the government

intends to pursue. The only recommendation made in this area was as follows [Ref.16:p.43]:

TTM 3-1: An automated system to provide comprehensive traffic data should be developed to meet the needs of both traffic managers and freight auditors throughout government.

The task force projected a three-year savings of \$529.6 million through implementation of an automated, centralized freight management system [Ref.16:p.44].

The transportation audit study concerned itself with the issue "Can the audit of government freight transportation payments be improved and higher rate overcharge recoveries be achieved?" [Ref.16:p.47]. Some of the key findings presented by this task force included:

...Rate audits are not performed until after payment of the freight bill.

...GSA audits freight bills an average of 18 months after payment.

...GSA does not know the total freight charges represented by the bills it receives for audit nor the total freight charges on the bills on which overcharges are identified.

...GSA identifies rate overcharges totaling 0.37 percent of total freight charges compared to the private sector's experience of 1.75 percent.

...Applying the private sector's rate audit overcharge recovery experience, the Federal Government should be identifying and recovering about \$80.5 million annually in rate overcharges, or about five times its present recovery rate.

...GSA uses manual procedures to rate audit only a portion of the freight bills it receives.

...The private sector has developed automated systems for use in the storage and application of freight tariff data and freight bill audits, but GSA has no such tools at its disposal.

...GSA has certain efforts underway to develop means of alleviating inadequacies in auditing freight bills.

Three recommendations were made based upon the above findings [Ref.16:p.53-55]:

TTM 4-1: For a period of at least five years, a major commitment should be made to using private sector rate auditing capacity to reduce the current freight audit backlog and provide ongoing support to bring GSA rate audits as close as possible to a current basis.

TTM 4-2: During the five-year period, a study should be conducted that assesses benefits from improved in-house audit efficiency through automation, as compared to continuing with the private sector on a long-term basis.

TTM 4-3: Postpayment legislative audit requirements should be repealed.

The task force projected a net savings to the government of \$165.3 million over three years if the above recommendations were implemented.

III. THE POLITICAL PROCESS TO PRE-AUDITING

A. INTRODUCTION

The previous chapter followed the transportation audit function as it evolved with legislation and recommendations on the part of the Federal government. It is interesting to note that the audit function as it existed in mid-1986 was almost back to where it originally started. In 1894, it was an executive branch function being performed in the pre-audit mode. In 1921, the pre-audit function was transferred to the legislative branch and in 1940, the function was changed to post-audit. In 1974 it was transferred back to the executive branch, and with the Prompt Payment Act of 1982 and the Grace Commission Reports of 1983, it would only be a matter of time before the function reverted back to a pre-audit mode.

This chapter will review the Congressional hearings in 1986 that led to passage of P.L. 99-627 which, among other things, authorized pre-auditing of government transportation bills. It will also review the actions taken by GSA to implement the requirements of P.L. 99-627, including the delegation of pre-audit authority to the military services, and the commercial carriers' responses to the newly authorized pre-audit authority.

B. THE FINAL PATH TO PUBLIC LAW 99-627

The various reports and recommendations from the President's Private Sector Survey on Cost Control in 1983 and the requirements set forth in the Prompt Payment Act of 1982 provided some of the incentive and momentum for both GSA and DOD to lobby for Congressional support of their own causes. It was GSA who took the lead role in the formalities of presenting to members of Congress recommendations that were to eventually become P.L. 99-627.

The original intent of GSA in its planned approach to Congress was only to request permanent authority for the payment of contract auditors from the overcharges recovered and authority to conduct pre-audits on certain carriers whose financial position were questionable. In 1983, GSA began using contract auditors to help alleviate the average 18 month backlog of transportation bills to be audited. In 1985, P.L. 99-88 permitted up to \$5.2 million annually to be spent out of overcharge collections as payments to contract auditors through September 30, 1989 (for FY 86 only, P.L. 99-249 raised the ceiling to \$7.6 million) [Ref.17:p.4].

The DOD had earlier forwarded a proposed bill to OMB requesting pre-audit authority for its transportation bills. Both GSA and DOD had differing views on what they wanted regarding the audit function, and both had made preliminary contacts with Congressional staffers, OMB, and each other. It was OMB who eventually negotiated a joint approach on the

matter, and an ensuing relationship developed between GSA and DOD to convince Congress of the merits of the proposed law. GSA would provide the background, data and experience in the field of transportation bill auditing, and DOD would provide the volume of business that would make pre-auditing very attractive in terms of cost savings to the government. As it turned out, GSA got what it wanted while making DOD, whose testimony was instrumental in getting the law passed, wait more than 20 months for their pre-audit authority.

On September 10th, 1986, representatives from GSA, DOD and Citicorp Management Logistics Incorporated presented their official stand before the House Subcommittee of the Committee of Government Operations. Supporting their stand by introducing H.R. 5420 on the subject were Representatives Cardiss Collins and Alfred McCandles. The following is a description of H.R. 5420 as stated in a subsequent House Report dated September 30, 1986 [Ref.17:p.2-3]:

The major purpose of H.R. 5420 is to improve GSA's ability to discharge its transportation audit responsibility. First, the measure would eliminate the implied requirement for payment of the bills on presentation and remove the express inhibition against a pre-payment audit. The basis for the immediate payment requirement has been rendered unnecessary in any case by the 1982 Prompt Payment Act. Second, it would make permanent GSA's temporary statutory authority to pay contract auditors from part of the overcharge collections that result from their audit findings. During recent years, the expansion of contractor auditing has resulted in significantly increased collections.

Third, it would direct transfer of net overpayment collections to the general fund of the Treasury. Fourth, it would authorize GSA's Administrator to delegate authority to another agency if it is cost effective or otherwise in

the public interest. Fifth, the bill would require GSA to head an interagency task force to study and report on development of an automated transportation management system for Federal agencies.

The role of the representatives from the Citicorp Management Logistics, Incorporated, was to present information to Congress on how commercially available automated transportation management systems, especially their own CitiPro system, could accurately perform the pre-payment audit as well as other transportation related management functions for government shippers. Some of the statistics Citicorp presented to Congress included a cost estimate of \$7-\$25 to manually pre-audit a single transportation bill in-house, a savings of 5% through accurate rating and pre-auditing, and an additional 10% savings from the efficiency that is produced by information made available from the pre-audit. The testimony apparently caught the attention of Congress since the original Bill presented at this hearing did not contain the requirement for the task force on an automated transportation management system as did the subsequent Bill presented on 30 September. Available commercial systems and the findings of the task force will be further discussed in Chapters IV and V.

Although the GSA and DOD approach to Congress was that of a joint effort, it was clear from the testimony that GSA was protecting its own interests. To GSA, "the most important provision of the bill is the language that will permanently

allow GSA to pay contractors out of receipts" [Ref.18:p.33]. The GSA testimony also supported the provisions to allow for pre-audits and the direct transfer of all net overpayments collected to the U.S Treasury Department to reduce the deficit. Up to this point, the procedures were to return overpayments collected to the agency that incurred the overpayment, or if that agency couldn't be identified, the amount was forwarded to miscellaneous receipts of the U.S. Treasury. Since DOD accounted for approximately 80% of all government transportation bills, and therefore, 80% of the overcharges, this last provision would eliminate millions of dollars from being returned to DOD. As GSA pointed out, the purpose of this would be to give agencies such as DOD the incentive to do a better job up-front of pre-auditing and preventing overpayments in the first place.

However, when questioned along the lines of the DOD being a prime candidate to perform the pre-audit function, GSA responded [Ref.18:p.40]:

Historically, GSA assumed this role from the General Accounting Office, and I think it has been the general opinion that there should be a single auditor for the Government's transportation bills. Currently that is GSA. We have done some delegations under special circumstances to the other agencies, but GSA basically feels that fragmentation of the audit operation would increase the cost of the audit function in general - should it be NASA, should it be DOD, should it be other agencies. We think that will increase the cost of the operation.

Again, when questioned about the wording of the bill which gave GSA the authority to delegate this (pre-audit) responsibility, GSA responded "...I believe some language in there says the administration may delegate" [Ref.18:p.41].

The GSA testimony provided Congress an insight to the complexity of auditing freight bills, the magnitude of the overcharges identified, and an overview of the GSA staff that performs the post-audit function. As GSA stated in various portions of their opening remarks [Ref.18:p.32-33]:

Determining whether a transportation charge is correct is a complex process. An auditor must possess a thorough knowledge of tariffs--published commercial rates; tenders--special, lower Government rates; and contracts--negotiated rates for specific shipments or groups of shipments--to properly audit a carrier's bill.

To date...we have identified \$44 million in rate overcharges. GSA currently employs 187 professional and support staff members....

...before GSA acquired this function, the General Accounting Office had as many as 1,200 employees performing transportation audit-related duties but were identifying only \$12 million in overcharges....

This significant increase in identified overcharges did not occur overnight. Since 1981, we have been streamlining and automating our in-house operations to make them more efficient.

...since 1983, GSA has been expediting the audit process through the use of contract auditors. Currently, we use seven contractors who will identify over \$20 million in overcharges, approximately 40 percent of the total for this year. Contractors have also helped us to reduce our audit backlog to 10 months from date of payment....

Other areas discussed by GSA, mostly as a result of questioning from the House Representatives, included the advantages and disadvantages of using contract auditors,

actions against carriers who seem to be chronic overchargers, assessing interest penalties, double billings, GSA's current transportation management system called "Numerax", electronic auditing, and other miscellaneous related topics. The GSA testimony also included wording to the effect that no matter what happens in pre-auditing, GSA should retain all oversight responsibility and continue to post-audit all transportation bills, whether or not a pre-payment audit was conducted.

The DOD testimony centered around two main issues, the need for conducting pre-audits and current initiatives to automate the traffic management function. On the first issue, DOD stated [Ref.18:p.19]:

It is the objective of the Department of Defense to improve the audit of Government transportation bills by stopping the disbursement of overpayments to those companies with whom we do business; and, until this objective is achieved, to recover overcharges as soon as possible after payment is made. It has been estimated that DOD disperses over \$40 million in overcharges annually which are recovered over a year later. To stop these unnecessary expenditures of transportation funds, DOD needs the authority to pre-audit its own transportation bills.

The DOD arguments on this issue included reference to the Grace Commission recommendations, the requirements of the Prompt Payment Act to pay all bills within 30 days, current commercial successes in automated pre-audit systems and EDI, and the "catch-all" response that pre-auditing makes good business sense.

On the second issue, DOD remarked that a certain amount of pre-auditing could be accomplished in a manual mode, and

that DOD was presently developing an automated freight system called the CONUS Freight Management (CFM) System which could perform this function. On this system, DOD stated

[Ref.18:p.21]:

This system will allow us to rate and route all domestic freight shipments using one centralized data base. Once fully operational, each of our installations will be able to access the system for the necessary information they need to efficiently and economically rate, route and audit their freight shipments. The primary input for this system is a standard tender on which commercial carriers offer their rates and services. The standard tender is designed to be flexible with respect to how the carrier may express its rates but structured enough to allow easy entry into our data base. Ultimately, commercial carriers will be able to electronically transmit their rates directly into our data base for immediate use by our installations.

The significance of the CONUS Freight Management (CFM) System is that it is a "total" transportation system which goes far beyond the rating and routing of freight shipments. The system will also provide management reports to identify how well the carrier industry is performing and allow us to take timely corrective action. It will allow DOD to perform traffic management analysis to assist in negotiations, studies, and in budget development. It will provide data for mobilization planning and a means of automating the shipping process to include electronic transmission of bills of lading.

During the line of questioning by Representatives Collins and McCandles, DOD further elaborated on the CONUS Freight Management (CFM) System, DOD routing of material, feedback and cooperation between GSA and DOD concerning carriers that consistently overcharge and recovering those overcharges, GSA's TARPS tapes which provides MTMC a record of overcharge notices issued, and air passenger fares.

The above Hearing completed, the Committee on Government Operations submitted its official Report dated September 30,

1986, Report 99-932, to the House of Representatives. The only major change to the original Bill was the addition of the section which established a task force, headed by GSA and including representatives from DOD and other Federal agencies. The purpose of the task force was to "study and investigate the feasibility, desirability, and economy of an integrated, automated system that Federal agencies may use in managing the transportation of property for the United States" [Ref.17:p.1]. This Report included the wording to amend section 3726 of title 31, United States Code, a summary and the purpose of the proposed amendments, background, summary of the 10 September Hearing, conclusion, analysis and other miscellaneous Congressional requirements.

Congressional Report 99-932 was considered and passed by the House of Representatives on 6 October and by the Senate on 18 October. On 7 November, 1986, Public Law 99-627 was enacted by the Senate and House of Representatives.

C. IMPLEMENTATION OF PUBLIC LAW 99-627

Public Law 99-627 is presented in its entirety as Appendix A. The key wording in section (1), subsection (a), which authorizes the pre-payment audit, is "...for the United States Government may be paid before the Administrator of General Services conducts an audit...."(emphasis added). Together with subsection (e), it was assumed by DOD and the intent of Congress that GSA would exercise these provisions

as soon as possible. However, this was not to be the case. As stated in an 18 August 1988 report to Congress [Ref.19:p.2]:

This report reviews the General Services Administration's (GSA's) failure to implement in a timely and fully effective fashion legislation for the first time authorizing Federal agencies to audit their transportation bills before payment. Public Law 99-627, which was passed in 1986 at the committee's initiation, expressly authorized the Administrator of General Services to delegate to other agencies authority to conduct such prepayment audits, provided only that such delegations were "cost effective or otherwise in the public interest."

As anxious as DOD was to implement pre-payment auditing, GSA appeared to be, in the words of Congress, "footdragging". As an example, the following is the chain of events that eventually led to the Army's authorization to conduct pre-payment audits on International Through GBLs (ITGBLs) for household goods (HHGs).

- * Department of the Army, USAFAC letter dated 1 December 1986 to GSA requested pre-payment audit authority to be implemented in stages. The letter explained the procedures for the first stage implementation of auditing ITGBLs and indicated a start-up date of January 87.
- * GSA's letter dated 9 February 87 to USAFAC delegated audit authority provided that GSA be given a time-sequenced model of how the system will operate and assurance that the proposed automated system will result in an accurate audit and generate a cost savings within a 90 day period.
- * USAFAC's letter dated 3 April 87 to GSA contained information on how the automated system works and the procedures to measure cost savings.
- * DOD's letter dated 28 May 87 on behalf of USAFAC discussed the delay in the granting of audit authority and proposed alternatives to GSA in order to expedite the action.

- * GSA's letter dated 4 June 87 to USAFAC requested a sample of ITGBLs that were audited by the USAFAC proposed system in order to fully evaluate its effectiveness.
- * GSA's letter dated 24 August 87 to USAFAC pointed out differences between USAFAC's audit and GSA's audit of the same ITGBLs and expressed other concerns about the system.
- * USAFAC's letter dated 16 September 87 to GSA provided additional information on the differences and addressed the areas of concern that GSA had. The letter requested final approval to pre-audit ITGBLs.
- * GSA's letter dated 24 September 87 to USAFAC granted authority to conduct the pre-payment audit on ITGBLs.

Altogether, from request to approval, the matter required nearly ten months.

The issuance by GSA of a final rule governing the delegation of pre-audit authority took nearly 20 months. The proposal to implement P.L. 99-627 as it related to pre-payment audits didn't appear in the Federal Register until 23 December, 1987, 13 months after the law was passed. The 18 August report [Ref.19] to Congress addressed this 13-month period and determined "that most of the delay was caused by a dispute within GSA as to whether each pre-audit delegation would require a separate rule and public comment or whether a single overall rule would suffice." [Ref.19:p.11] As it turned out, GSA opted for the single overall rule.

The proposed single rule that did appear in the 23 December Federal Register [Ref.5] was not what DOD wanted; instead of granting across-the-board pre-payment authority, it contained many restrictions which DOD criticized as

"burdensome, unrealistic, unnecessary, and contrary to Congress' desire to establish a prepayment audit capability within the Government" [Ref.19:p.12]. The underlying theme throughout the proposed ruling was that any government agency wanting to conduct pre-payment audits would have to prove to GSA beyond a shadow-of-a-doubt that their pre-audit system was 100 percent efficient and effective. As will be shown in Chapter V, GSA itself was not living up to the rules it wanted other agencies to follow in its conducting of the post-payment audit function. Some of the more restrictive requirements included wording requiring all pre-audit systems be automated (this requirement was subsequently deleted), each aspect of the proposed pre-payment audit function be subject to GSA scrutiny and approval, and that authorization would be granted on a case-by-case basis. GSA made it very clear in the proposed ruling that it would not relinquish its current post-payment audit function or its oversight role.

While GSA was working on the proposed and final rules, DOD was vigorously pursuing its overall pre-payment audit plans. As previously discussed, DOD did obtain limited authority in September, 1987, on behalf of USAFAC to pre-audit ITGBLs for HHGs. Two other specific requests were also submitted to GSA for consideration. The background and subsequent information concerning the first request, which is discussed in the following paragraph, serves as a prime example of not only the reluctance of GSA to delegate pre-

payment authority, but the magnitude of the overcharges that DOD has been unnecessarily paying out.

In a 3 June, 1987, letter to GSA, DOD requested that MTMC be granted authority to pre-audit GBLs covering movement by rail of military equipment moving between continental U.S. points and the National Training Center (NTC), Fort Irwin, California. The background for this specific request resulted from a Fort Irwin internal review of all exercise moves beginning with October, 1985. The initial findings of this internal review indicated approximately \$4.4 million in alleged overcharges. Investigation by the General Accounting Office confirmed approximately \$3 million. The draft report of the GAO investigation revealed that 57 percent of those overcharges were the result of improper billing and the remaining 43 percent due to improper GBL preparation. In March of 1987, MTMC, USAFAC and GSA began a pre-payment review program for those shipments.[Ref.20] The 3 June letter outlined a plan where MTMC and USAFAC could conduct a pre-payment audit in a cost effective, accurate and timely manner. In the 24 June 1987 letter reply to DOD, GSA politely rejected the request stating the current set-up between GSA, MTMC and USAFAC was successfully working, that it doubted another government agency can perform a manual pre-payment audit, and that it preferred not to delegate this authority unless it could be automated.

The second request was from DOD on behalf of NAVMTO. In a 19 October 1987 letter to GSA, DOD requested NAVMTO be delegated authority to use a contractor to audit GBLs and CBLs for freight and household goods. The letter contained enclosures on the proposed statement of work, key features of the audit, and a time sequenced model of how the audit would be accomplished within the limitations of the Prompt Payment Act. The GSA letter response dated 11 January 1988 pointed out perceived deficiencies in the area of timeliness of the audits, the ability to audit the contractor's work, the cost-effectiveness of the program, and lack of automation. Another request from DOD was again disapproved.

By January of 1988, DOD had made very little headway in its dealings with GSA on this whole issue. It was more than a year since P.L. 99-627 was passed, DOD had been granted only one limited authority to pre-audit, and the proposed ruling that appeared less than a month ago in the Federal Register was less than adequate for DOD's purposes. In a strongly worded letter dated 11 February 1988 to GSA, DOD expressed its concerns on GSA's inability to grant pre-payment authority and the subsequent impact on scarce DOD transportation funds. As DOD stated in its letter [Ref.21]:

Much can be gained by granting DOD general prepayment audit authority for all transportation bills. A total prepayment audit capability within DOD will help reduce outlays to postaudit contractors; eliminate the cost of recovering overcharges; reduce the cost of money tied up in the recovery process; and, most importantly, allow DOD to

meet its critical transportation requirements that may otherwise be cancelled or delayed due to a shortage of funding.

We do not oppose GSA oversight of DOD prepayment audits nor are we advocating eliminating the postaudit process. All we seek is the ability to prevent the disbursement of our limited transportation funds in a timely and effective manner. GSA's proposed rule, with its many procedures and conditions, serves only to perpetuate the bureaucratic process and will result only in more regulations and further delays before an effective prepayment audit capability can be in place.

The interim response from GSA to the above letter indicated that the final rule was being drafted and should be published in the Federal Register by 30 June 1988. The response also addressed two concerns that DOD expressed on the proposed rule. On the type and character of bills subject to pre-audit, GSA clarified its intent of the wording which was "...to provide general prepayment audit delegation to agencies, leaving to agency discretion, the character of the bills to be audited." On the area of automation, GSA determined that requirement as unnecessary and therefore deleted it. [Ref:20]

At this point, DOD anticipated full authority to conduct pre-audits of its transportation bills. In a 2 May 1988 memorandum from DOD to Assistant Secretaries of the Army, Navy and Air Force, and to the Director of the Defense Logistics Agency, DOD asserted its intent to take full advantage of the pre-payment audits and stressed the need for a coordinated planning effort among all the participating agencies. In this regard, DOD directed each agency to prepare

a pre-audit plan that would outline the methodology to be used, milestones, and one that would maximize payback and benefits to DOD. Within a month, the agencies responded. For all intents and purposes, DOD was prepared to commence implementation of its pre-auditing plans upon final approval from GSA.

At GSA, not only were they contending with DOD's desire to get pre-payment authority but also with an ongoing GAO study on the auditing function of government transportation bills and pressures from carriers and various associations on the issue of pre-payment audits. In a 16 June 1988 subcommittee hearing, the results which were published as House Report 100-885 [Ref.19], the subcommittee chairperson, DOD and GAO were highly critical of both the way GSA conducted its post-audit function and the delay in implementing P.L. 99-627. The post-audit function and procedures of GSA will be discussed in Chapter V and the concerns of commercial carriers will be the topic of the last section of this Chapter.

The final rule on pre-payment transportation audit procedures appeared in the 5 July 1988 Federal Register [Ref.21]. Within this rule contained a summary of all comments received from the commercial sector on the proposed rule and the necessary amendments to the applicable sections of the CFR. In particular, the final rule added Section 101-41.103 to 41 CFR (Appendix B) which stated the new

procedures, conditions, and limitations relevant to the delegation of authority to perform pre-payment audits of selected transportation bills.

In a 12 July 1988 letter to GSA, DOD requested authority to conduct pre-payment audits of its transportation bills in accordance with P.L. 99-627 and the revised sections of 41 CFR. The letter listed the four DOD activities that would actually perform this function: U.S. Army Finance and Accounting Center (USAFAC), Indianapolis, IN. for Army, Air Force and DLA transportation bills; Navy Material Transportation Office (NAVMTO), Norfolk, VA. for Navy bills; Transportation Voucher Certification Branch, Marine Corps Logistics Base, Albany, GA. for Marine Corps bills; and, Headquarters, Military Traffic Management Command, Washington, D.C. and its Area Commands at Bayonne, N.J. and Oakland, CA. for selected service-wide transportation bills. GSA acknowledged the request in a 27 July 1988 letter and stated authority would be effective upon publication in the Federal Register. In the 1 August 1988 Federal Register [Ref.22] GSA "...determined that it is both cost-effective and in the public interest to delegate authority to the Secretary of Defense to conduct a prepayment audit of any transportation bill executed by any department, agency or activity within the Department of Defense, subject to the provisions of the Federal Property Management Regulations, Title 41, Code of Federal Regulations, Subpart 101-41, and

amendments thereto." Finally, the authority to conduct pre-payment auditing of DOD transportation bills became reality!

D. CARRIERS' RESPONSES TO PRE-AUDITING

Up to this point, the topic of auditing has been centered around the Government. As stated in Chapter I, during FY 87, GSA identified over \$58 million in overcharges. Put in a different perspective, 1 out of every 10 transportation bills audited by GSA in FY 87 contained an overcharge error [Ref.19:p.2]. This was \$58 million that commercial carriers received that they were not entitled to. And this is not just a problem for government shippers, either. Commercial shippers have experienced overcharges of a similar magnitude, although some of the causes and effects differ due to differing regulations and the nature of the operations that affect commercial shippers but not government shippers and vice-versa. Some of these differences will be covered in Chapters IV and V.

Confining the remainder of this section to the government's bill processing, paying and audit procedures, some of these practices may have fostered a "relaxed" attitude among commercial shippers in terms of accurately billing the government. At the same time, these same procedures have also caused a "relaxed" attitude on the part of government shippers in accurately preparing GBLs, thereby

causing the overcharge themselves. A good example of both was presented previously in the Fort Irwin case.

In this age of deregulation and the fierceness of competition among commercial shippers, it is possible that some carriers may be taking advantage of some of the inherent deficiencies of the Governments "pay now - audit later" procedures and their inability or reluctance to take decisive action against shippers that do overcharge. The following portions of House Report 100-885 [Ref.19:p.7] clearly points this out.

As an example of that situation, the subcommittee reviewed the case of six household goods forwarders who in 1985 billed DOD exorbitant sums--often 10 times the normal amounts--for some 1,000 shipments from Germany to suburban Washington, D.C. Many months after the bills were paid (without benefit of prior audit) GSA, on the basis of its postaudits, determined that the Government has been overcharged \$4.5 million. The forwarders disputed the overcharges but eventually agreed to a repayment plan permitting them to repay their outstanding debts over a 3-year period ending in 1989.

Related to that problem is that GSA rarely advises other agencies regarding carriers with a history of overcharging or of failure to make prompt refunds of overcharges, to enable the agencies to avoid doing business with such carriers. Few agencies have any idea of what GSA's audits have uncovered or why. Accordingly, a carrier could repeatedly overcharge the Government and seldom would the overcharges be corrected. Many series of overcharges reportedly continue for years with nothing done to stop them. The agencies receive and pay the bills; they submit them to GSA for audit; the GSA audits the bills and issues overcharge notices where appropriate. As long as the carriers eventually refund the overcharges or agree to a repayment plan, the carriers can continue to overcharge without any corrective action being taken.

Further, even though Federal debt collection regulations since 1982 permit agencies to assess a debtor charge to cover the administrative costs incurred as a

result of a delinquent debt, GSA rarely invokes that sanction.

From the above, it can be seen how a less-than-honest carrier could make some extra profits off the government. If nothing more, the carrier is at least guaranteed an "interest free" loan of the overcharge amount for anywhere from six months to three years. If the carrier counts on this overcharge, then pre-auditing could be detrimental to his/her financial position.

The intent of this section is not to make generalizations on the integrity of the carrier industry or to imply that any carrier who is against pre-auditing is less than honest. The problem is that the small minority of carriers who appear to deliberately overcharge the government can oppose pre-auditing, or at least certain sections of the CFR rule, on the same grounds as the majority of carriers that do conduct business in an honest and forthright manner.

In response to the December 1987 proposed rule in the Federal Register, comments were received from six carrier trade associations and two carrier companies. The overall tone of the comments was to discourage pre-payment audits. Appendix C of this thesis contains the official, written response to the proposed rule by the American Trucking Association, the largest organization representing the American trucking/carrier industry. Most comments questioned the "cost-effectiveness" of doing a pre-payment audit when a

post-payment audit would still be performed, concern that the pre-payment audit would delay payment beyond the requirements of the Prompt Payment Act, the ability for other agencies to conduct an accurate pre-audit, and the method to be used to select bills for prepayment audits. On this last point, GSA conceded to the carriers by adding subparagraph (m) to Section 101-41.103 which specifies that prepayment audits must be conducted in a nondiscriminatory manner. Other comments appeared to be self-serving, such as the recommendation to exempt all transportation bills from air passenger and small package air carriers. Although GSA appeared not to have adopted many of the individual or specific requirements that the carrier industry requested, it did add subparagraph (n) to Section 101-41.103 which listed reasons for suspension of pre-payment audit authority. Many of the reasons were as a result of the concerns expressed by the carrier industry.

As a final note, one carrier who conducts a fair amount of business moving government freight expressed privately his concerns on the above issue. His concern was that if this whole issue becomes a "hot topic", the pendulum could swing the other way. Where in the past it (government auditing) received very little attention, the government might micro-manage to the point where the paying agency and/or contract auditor will be trying to get every last penny out of the carrier before a bill is paid. For a small or medium size

carrier, this could turn into an administrative hassle for which the carrier has neither the time nor the money. Additionally, carriers making honest mistakes might be categorized together with carriers whose questionable charges are, perhaps, deliberate, thus making an uneasy relationship between commercial carriers and Government shippers.

IV. FREIGHT BILL AUDITING IN THE COMMERCIAL SECTOR

A. MECHANICS OF AUDITING TRANSPORTATION BILLS

The auditing of transportation bills involves a comprehensive review of both the freight bill and the associated bill of lading to determine whether the charges as billed were based on the lowest applicable rates. By law, if two or more rates can apply to a single move, the carrier is required to charge the lowest rate. Although it would appear that auditing a freight bill consists of a series of simple, routine steps, interviews conducted with personnel experienced in the field of freight bill rating stated that determining the correct rate for a shipment is a complicated process that takes years of experience to master. For the freight bill auditing entity, an experienced, seasoned rater is the key to an accurate and cost effective audit.

In either a pre-audit or post-audit, the shipper's freight bill is compared to the bill of lading to ensure the freight bill is for the goods and services as stated on the bill of lading. The bill of lading is a contract between the shipper and carrier that performs three basic functions:

1. It serves as a receipt for goods subject to the classifications and tariffs that were in effect on the date the bill of lading was issued.
2. It serves as a contract of carriage, identifying the contracting parties and prescribing the terms and conditions of the agreement.
3. It serves as documentary evidence of title.

By law, the freight bill is to reflect the goods and services actually moved. Since the shipper is the party responsible for the preparation of the bill of lading, the shipper can make numerous mistakes on the bill of lading which could create overcharges when the freight bill is computed by the carrier. Appendix D, provided by Traffic Service Bureau, Incorporated, contains a list of common mistakes by both the shipper and carrier which can result in overcharges.

The original bill of lading is the source document from which the billing carrier bases the charges assessed on the freight bill. Typical carriers have a centralized rating and billing department which rates the shipment based on the point-of-origin/destination, classification and class rate of the shipment, determination of rate from class rate tables, commodity or exception groups, knowledge and application of negotiated or contract rates with individual shippers, and services provided by the carrier during the move. The process can become complex when the shipment is made under pool distributions, stop-offs, mixed truckloads, mixed carloads, trailer on flatcar, accessorial, exclusive use, in-transit, intermodal service rates, and other various methods. Rating is further complicated by the use of irregular routes, and use of exempt and specialized carriers. [Ref.23:p.430-432]

Once the freight bill is computed, the carrier submits the bill to the shipper for payment. Depending on factors

such as the size of the shipping department, experience of personnel in the accounting department and degree of automation, the shipper can either audit the bill prior to payment or pay the bill and audit at a later time. If the shipper has the ability or procedures established to pre-audit, the shipper most likely rated the movement when the shipment was routed. In this case, the shipper would compare the carrier's freight bill to the estimate of the movement prior to actual consignment to the carrier. If both figures are within a set tolerance, usually \$1.00, the bill is considered to be correct and paid. If the pre-audit process determines an overcharge, the shipper would either notify the carrier of the possible error and request a corrected bill or just deduct the overcharge from the payment. As the result of a recent ICC ruling, shippers have 15 days to either pay the freight bill or send notification to the the carrier why payment can't be made. In either the pre-audit or post-audit, the auditing activity performs the exact same steps as the carrier's rating and billing department.

B. AUDITING BY COMMERCIAL SHIPPERS

From the research conducted, it appears that freight bill auditing by commercial shippers has been conducted in varying degrees, forms and methods since the early 1900's. Shippers could either audit all freight bills or establish certain criteria such as all bills over \$200, all bills from

carrier XYZ, or a combination. The shipper could perform either a pre-audit, post-audit, or both and accomplish this either in-house or contract out.

Until the mid 1970's, commercial freight bill auditing basically followed a standard path. With the advent of deregulation and wide-scale/low cost computerization, both appearing at about the same time, freight bill auditing became an expanding field which was integrated with other transportation management functions. The use of computerized freight bill auditing in the commercial sector is discussed later in this Chapter and the government's initiatives in this area are discussed in Chapter V. The impact of deregulation on freight bill auditing, for both commercial and government shippers, will be discussed next.

1. The Impact of Deregulation on Freight Bill Auditing

As mentioned in Chapter II, deregulation of the motor, rail, and air carriers in the late 70's and early 80's had a substantial impact, in an indirect way, on the transportation bill auditing function, more so for commercial shippers than for government shippers. The following discussion will focus on the motor carrier industry and auditing prior to deregulation and the effects of the Motor Carrier Act of 1980 on the auditing function through the late 1980's.

a. Auditing Prior to Deregulation

Any discussion on freight bill auditing prior to deregulation would have to include a description on how the tariff and rate structure operated, the stability of the motor carrier industry, and the control over all of these by the ICC.

Prior to deregulation, the motor carrier industry was in a fairly stable, controlled environment. Different carriers had almost a monopolistic hold on providing transportation services for their geographical areas. This monopolistic hold was reinforced by the ICC's regulatory practices on entry into the motor carrier industry. The basic rule set down in 1935 for motor carriers and extended to other types of regulated transport reads [Ref.24:p.41]:

Whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

In other words, if existing carriers were willing to offer the service, then the new applicant had no valid reason to exist. Thus, established carriers were virtually guaranteed free reign within their designated geographical areas.

Tariffs during this period (pre-1980) were filed through the various rate bureaus with the ICC. Because existing carriers were a firm fixture and entry into the

business tightly controlled, the number of tariffs with which any one shipper had to contend were relatively few. The ICC's review of all tariffs was quite meticulous and enforcement was strict. To both the shipper and the carrier, the published tariff was the law. The relationship of tariffs and the ICC were mostly mirrored by the relationship between tenders and the government. Both MTMC and GSA controlled the processing and issuing of tenders, and the rigid entry procedures set by the ICC resulted in a manageable tender library for the various governmental agencies which required the maintaining of tenders.

The rate structure prior to deregulation mainly consisted of three types; class, commodity and exception. A shipper basically knew, from experience, what rate structure would apply to his shipment. These rates were often set collectively by the various rate bureaus and because of the regulatory structure of the industry, the rates within any geographical area among all the carriers serving that geographical area were practically the same. Shippers had little need to shop around for the best deals since all the carriers were offering the same rates. The major criterion for selecting a carrier was thus predicated by the types of service the individual carriers would offer to the shipper. This rate structure also affected government shippers in that the tender rates were based on a percentage discount of the carrier's published tariff rates. Changes made to published

tariff rates resulted in a proportional change to published tender rates.

In summary, transportation was a highly regulated industry. To the shipper, there wasn't much choice; either he had his own transportation fleet, used a contract carrier, or relied on a handful of common carriers. In this environment, most commercial industries considered the cost of shipping as a necessity over which they had no control. There was little need to place a lot of management attention or effort into this area because the freight bills had to be paid, the transportation system was strictly regulated by a government agency, and options were few. Auditing of freight bills was more of a formality after the fact. Transportation costs were a part of doing business, a cost passed along to the shipper's customers or imbedded in the product being shipped, and any money recovered from a post-payment audit was a "bonus". The experience and expertise needed to post-audit was not worth the effort on the part of the shipper. Consequently, almost all the post-auditing was done on a commission basis by any of the numerous freight bill auditing companies that performed the service.

The government's position was somewhat different in that it had no way of passing transportation costs to a customer, and as a spender of public funds for transportation, it had an obligation to ensure that its funds were being spent wisely. In this regard, the government was

always involved in auditing transportation bills, regardless of ICC regulation or deregulation.

b. Auditing in the Deregulated Environment

Deregulation in the form of the Motor Carrier Act of 1980 changed the rules of the game, and as a consequence, both the commercial and government transportation bill auditors were faced with new challenges. With the relaxing of the entry requirements into the carrier industry, the number of carriers almost doubled, mostly as a result of many individuals applying for status as a licensed carrier. In 1974, there were a total of 15,100 regulated motor carriers licensed by the ICC [Ref.25:p.120]. In 1983, that figure rose to 27,181, almost a 100 percent increase. Not only did the numbers rise, but the confinements of carriers to certain geographical areas was all but eliminated. The result was a substantial increase in the number of carriers with which a shipper could deal, which meant larger tariff/tender libraries for the auditors to comb through. For example, in the mid to late 70's, the amount of tenders on file with MTMC was in the 8,000's. As of 20 September, 1988, this figure was 14,683 [Ref.26].

The biggest impact of deregulation on the commercial side, and to some extent the government's, in terms of freight bill auditing has been the relaxing of the rate structure. Instead of dealing with rate bureaus, carriers could independently set rates with the ICC and

strike deals with individual shippers. Although common carriers are still required to maintain up-to-date rates in their tariffs, many do not. A common carrier can also act as a contract carrier and in this mode, he is not required at all to publish his contracted rates with the ICC. A single shipper could have several different agreements set up with a single carrier.

What this means to the freight bill auditor is that many times he/she does not know the correct rate that is in effect or should have been in effect. One scenario is where the shipper and carrier set-up an agreement for a certain rate, the freight bill is rated by the carrier at the published tariff rate, and the auditor, not knowing of any agreement, determines that the bill as presented is correct. Another scenario, and one that's drawing much attention lately in the commercial transportation field, is that of "undercharges". In this case, a negotiated "deal" is set-up between the shipper and carrier, the freight bill is rated at the discounted or agreed upon rate, and the auditor is either privy to the deal and therefore determines the billed rate to be correct, or has no knowledge of the deal but accepts the lower billed rate as the correct rate. Months or years later, the carrier declares bankruptcy (another problem associated with deregulation) and in the process of the liquidation audit, the liquidation auditors determine that the freight bills submitted by the bankrupt carrier were "undercharged",

meaning lower than the published tariff rates at the time of the shipment. Unless there is sufficient evidence in the bankrupt carrier's file of an agreement for some type of discount or reduced rate, the legal rate that applies is the tariff rate, and ultimately, the shipper is presented a bill for the additional charges.

The question, "Has deregulation resulted in more or less overcharges being identified by shippers?", was presented to various organizations and agencies during the research process. The general consensus, at least for commercial shippers, was that initially overcharges did increase, then leveled off, and is presently on a decreasing trend. The increase was attributed to the initial surge of new carriers who were inexperienced at rating freight bills, existing carriers trying to cut costs by hiring inexperienced raters or rating "high", and the unfamiliarity of both shippers and carriers with the new deregulated environment. By rating "high", a carrier would either apply the highest possible rate or make assumptions which predicated the application of higher rates and accessorial charges.

Over time, the industry adapted and became experienced working in a deregulated environment. Shippers also became aware of the new leverage acquired as a result of deregulation. Along with computerization, shippers could accurately track transportation costs, carrier performance, pre-audit freight bills, and negotiate for the best rates.

The carrier industry also introduced computers into the bill rating function, thus cutting down on clerical and extension errors. Carriers couldn't afford to overcharge because shippers were better equipped to catch it and shippers could easily drop a carrier that appeared to be overcharging by more than an acceptable amount. Additionally, shippers are increasingly entering into long-term contracts with individual carriers, thus setting up a familiar and standard way of doing business including the rating, auditing and payment functions. Because of the above, carriers are now compelled to do a better job in reducing overcharges or face the loss of business.

2. Contract Freight Bill Auditing

One way for a commercial shipper to conduct the freight bill audit function is to contract out the function to a firm specializing in freight bill auditing or which conducts an audit as part of the overall transportation management services performed. For freight bill auditing only, this method is most attractive for firms with a small shipping department or whose overall transportation costs are negligible. For large shippers or for companies who want to manage their transportation department as a profit center, freight bill auditing is usually an integral part of a total traffic management system performed either in-house or contracted out to one of many companies in the transportation management industry.

Before deregulation, contract post-auditing of freight bills was the norm. A shipper would pay its freight bills and then send out the paid freight bills to a contractor to be post-audited. This could be done monthly, quarterly or even yearly due to the three year time period in which a shipper could submit a claim for overpayment (this is currently the way the government conducts the post-audit function). One such company which performs post-payment audits for commercial shippers is Traffic Service Bureau (TSB) of Middletown, Pennsylvania. Founded in 1920, TSB is one of the oldest firms in the business with a clientele of about 500 accounts. Some of the functions and services performed by TSB, and to some degree most firms in this business, include post-audits on all modes, maintenance of a centralized tariff and negotiated rate library, auditing for errors in rates, extensions, routing and classifications, and notification to carriers and collection of overcharges.

To the shipper, there may or may not be a cost associated with the contract post-audit depending on the point of view. Companies such as TSB charge the client based only on the amount of overcharges collected, typically 50 percent. If the shipper's paid bills contain no overcharges, it costs the shipper nothing and the auditing company gets nothing. If the shipper's paid bills contain, say, a \$1000 overcharge, the auditing company keeps \$500 and the shipper gets \$500 in the typical 50-50 scheme. Also, most auditing

firms retain a higher percentage if the bills were previously audited due to the decreased chance of identifying overcharge errors.

As an example, most companies that do pre-audit their transportation bills routinely contract out for a post-audit since a post-audit doesn't cost anything, the post-audit results could reveal weaknesses in their pre-audit procedures, and the commission to the audit firm shouldn't be of a significant amount. Although it appears that in a post-audit overcharge situation the shipper is recouping money after the fact, similar to a rebate, in reality the shipper is paying someone (the auditing firm) for identifying the mistakes of the shipper and/or the carrier, mistakes that should have been prevented in the first place. Depending on the shipper, this may or may not be of major concern. Using the above rationale, it can be seen why a pre-audit by the DOD services with a post-audit by GSA is probably the most cost efficient method for performing transportation bill audits within DOD, providing that GSA can provide DOD with a timely and accurate summary of its post-audit results.

Because of the above discussion, it can be seen why pre-auditing would be more attractive and cost effective. From the research conducted, it appears that about 50 percent of all shippers now conduct pre-audits and the trend is rising, mainly due to increased automation by shippers, computerized interface with the carrier industry via

Electronic Data Interchange (EDI) and the increase in available software and services to the shipper in this field.

As with post-auditing, many companies are in business to provide pre-audit services to shippers, although pre-auditing is usually conducted in conjunction with the rating, routing and bill paying function, or part of an overall transportation management system that is tailored to the shipper. One such company contacted, Freight Check of Seattle, Washington, provides both a pre-audit and post-audit service. However, the majority of their business is in pre-audit, and pre-audit and payment of freight bills. Freight Check also provides consulting, negotiating and other services in all modes of transportation. In a typical contract between Freight Check and a shipper, Freight Check would rate and route the material, pre-audit the bill, and pay the carrier from an account reimbursed by the shipper. Under arrangements such as this, the charges to the shipper would vary depending on the degree of services provided. For just a pre-audit, the normal industry practice is to charge an amount per bill audited, usually around \$1.00 per bill.

3. In-House Freight Bill Auditing

In-house, almost all auditing is done in the pre-payment mode. This has been made possible in the past 5 years with the affordability and availability of stand-alone computers and the increased availability of easy-to-use software to manage any aspect of the transportation system.

These systems allow the shipper complete control and visibility of its entire transportation management system and the ability to control costs and correct any problems immediately.

The key feature to all the various software that allow freight bill auditing is an automated database of carriers' tariffs and negotiated rates. This fact was recognized in the Transportation Management Automation Feasibility Study which stated "One fact is generally accepted: the rates and charges database, be it centralized or maintained at the local level, is the cornerstone of any automated transportation system" [Ref.27:p.59]. In fact, the study stated that "An integrated, automated transportation system is both technically feasible and economically justifiable" based on the availability and successes of commercial software utilized in the commercial sector [Ref.27:p.4].

As an example, Weyerhaeuser Information Systems offers a rate management system called ExcellRate for both rail and motor. ExcellRate is designed to run on a stand-alone PC and is delivered to the customer with a fully loaded rate database, rate reports customized to the customer's needs, and outputs tailored to integrate with other transportation related systems. The customer can easily update the database, examine tariff and negotiated rates for any carrier between any points, and determine the best rate

for the shipment. This system allows an accurate audit of freight bills, the ability to produce automated documents, and analysis of carrier performance, traffic patterns and other management needs. [Ref.28]

4. Computerization and Electronic Data Interchange

The impact of computers on the freight bill audit function was touched upon previously throughout this chapter. Computerization and use of software programs for transportation and distribution management is now part of the everyday routine for many companies. In a 1988 "pulse" survey conducted by Traffic Management, 42 percent of the respondents utilize some sort of computerized freight rating and payment program, with another 40 percent indicating the implementation of this function within the next year [Ref.29:p.103]. This surge can be directly attributed to the low cost/high power PCs now available on the market, the hundreds of software products available for transportation management, and the competitive advantage and cost savings realized through an automated system.

The estimates on the amount of savings realized through a computerized freight bill auditing and payment function varied throughout the research conducted. This was mainly due to the type of commodities that were being shipped, the type of industry, and individual arrangements with the carrier industry. The responses were consistent in that the systems paid for themselves within a year, usually

3-6 months. Not only would the system identify and prevent the payment of overcharges, but would point out errors that could be corrected in subsequent transactions and generate various reports identifying the carriers that overcharge and those that could provide lower rates for the same shipment.

Along with computerization and automation, Electronic Data Interchange (EDI) is the next step in streamlining and reducing costs in transportation management systems, especially in the auditing and payment process. The concept of EDI is to reduce the burdensome process of transmitting, handling and storing paper documents. Instead, carriers, shippers and financial institutions are linked electronically via computer networks designed to interactively transmit transportation data, documents and reports.

Although the subject of EDI is beyond the scope of this thesis, EDI will certainly be a factor to consider in any automated system designed to accommodate freight bill auditing. In the commercial sector, this is currently the case. There are now over 150 types of transactions that can be done electronically and over 80 motor carriers that conduct business computer-to-computer [Ref.30:p.9-10]. The field is growing rapidly and by the year 2000 it is predicted that the entire transportation industry will be involved in some form of EDI. On the DOD side, the Conus Freight Management (CFM) System, which will be discussed in Chapter V, is being designed to extensively use EDI technology.

The Transportation Management Automation Feasibility Study [Ref.27] that was published by GSA in July of 1988 was a result of the requirements of section two of P.L. 99-627. The study, published in two volumes, contains a comprehensive review of the current systems and planned initiatives of both the commercial and government sector in the area of automated transportation management systems. In support of the success encountered in the commercial sector, one of the key findings was that "Commercial Software is Readily Available to Provide the Functionality Desired in an Automated Federal Transportation Program" [Ref.27:p.2].

As previously mentioned, one of the conclusions of the study was that "An Integrated, Automated Transportation System is Both Technically Feasible and Economically Justifiable." Another positive conclusion was that "An Integrated, Automated Transportation System is Cost-Effective." In the five alternative systems that the study reviewed for possible implementation, all contained pre-payment rate auditing as a necessary component.

V. FREIGHT BILL AUDITING IN THE FEDERAL GOVERNMENT

A. OVERVIEW OF THE GSA/DOD TRAFFIC MANAGEMENT SYSTEMS

Within the Federal government, there exist two separate but parallel systems to manage the interface between commercial carriers and government shippers concerning the transportation of government material and personnel. On the Department of Defense (DOD) side, the Military Traffic Management Command (MTMC) and its area commands perform this function. On the government civilian side, this task is administered by the General Service Administration's (GSA's) Office of Travel and Transportation Management and its regional offices.

The following section will look at both MTMC and GSA in terms of overall structure and in specific areas that have a bearing on the transportation bill audit function. A majority of the terms, explanations and procedures are the same for both DOD and GSA, therefore, these will be discussed in the DOD section with only the differences or exceptions covered in the GSA section.

1. Military Traffic Management Command

The Military Traffic Management Command is the focal point for any commercial carrier wanting to conduct the business of moving defense material and personnel. One of its major responsibilities in this regard is to act as liaison

between commercial carriers and defense shippers. MTMC headquarters is responsible for overall policy and guidance while the MTMC area commands and Installation Transportation Officer's (ITO's) conduct the everyday operational business of moving material and personnel.

a. Tenders, Tariffs and Negotiated Rates

As stated in Chapter II, 49 CFR 1330 permits commercial carriers to provide the government free or reduced rates, exempt from ICC regulations. Once a carrier is granted operating authority from the ICC and has obtained a Standard Carrier Alpha Code (SCAC), the carrier must file its rates with MTMC before it can provide transportation services to DOD. The vehicle for conveying the carrier's rates is called a tender. Although MTMC uses various forms of tenders, the remainder of this discussion will center on the DOD Standard Tender of Freight Service and will be referred to simply as the standard tender.

The standard tender is a standardized, computer oriented form which contains the carrier's rates and accessorial services and charges. It is designed for use with a series of rules publications depending on the mode of transportation, and for LTL traffic, the carrier's rates are based on a baseline class rate structure. The rules publication contains specific procedures and rules that are unique to DOD, and prohibits certain procedures and rules that are practiced in the commercial sector. [Ref.31]

Headquarters, MTMC, examines all tenders received and, if acceptable, assigns a distribution number. It also maintains a central tender library and provides copies of the approved tenders to GSA's Office of Transportation Audits and to the area commands in Bayonne, N.J. and Oakland, CA. Other DOD commands, such as NAVMTO, which require copies of tenders applicable for its own management needs, will request copies from MTMC(HQ). The carrier is responsible for distributing the approved tenders to the various military installations with which it intends to conduct LTL business. Carriers must submit any proposed changes to the approved tender to MTMC(HQ) within 30 days of the effective date of the change. Any carrier, freight forwarder, or carrier rate bureau, that does not meet MTMC filing requirements, will not be considered in DOD routings. [Ref.31]

The carrier's tariff contains the lawful rates and rules on file with the ICC and are available to any commercial shipper. In some instances, circumstances dictate that DOD shippers utilize carriers that do not have a tender on file with MTMC, and therefore, the rates and rules of the carrier's tariff would apply to the move. The carrier's tariff would also apply to any unusual services or charges which were performed but not listed in the carrier's tender. However, with the expanded use of the standard tender and the Guaranteed Traffic (GT) program, the goal is to eliminate

completely the possibility of having to refer to the carrier's tariff.

Negotiated rates are a type of tender which applies to situations such as "one-time" or unique moves, Standing Route Orders (SROs), and movements under the Guarantee Traffic (GT) program. MTMC(HQ) would advertise in the Commerce Business Daily, listing the requirements for special moves such as the relocation of offices, exercise movements, consolidations of stock to one location, etc., or to traffic of a repetitive nature. The terms of the tender would apply specifically to the requirements stated in the Commerce Business Daily and subsequent negotiations.

The Standing Route Order (SRO) and Guaranteed Traffic (GT) program are also designed for repetitive type requirements. The SRO is mainly used for traffic of infrequent repetition or frequent movements of low volume over a long period of time. Carriers assigned to an SRO, which are in effect for 30 days, are selected based on the lowest bid. The MTMC area commands are responsible for reviewing SROs for applicability and cost.

The Guaranteed Traffic (GT) program is a MTMC initiative which gives a single carrier the right to transport all DOD materials within a designated shipping channel. The program is not a contractual arrangement, but an agreement between MTMC, the installation supported, and the carrier for exclusive service over a fixed period of time,

usually 12 months. Criteria for the GT program include large volume (usually one million pounds or more annually), movement from one origin to one or more destinations, and recurring or repetitive movements. [Ref.32:p.2-3]

The tender, tariff or negotiated rates are the source documents used during an audit that determines whether the freight bill is correct. Any deviation from the rates, rules or service charges, as contained in the applicable tender, is cause for issuing an overcharge claim to the carrier (post-audit), or an adjustment made to the original bill (pre-audit), providing the deviation causes a monetary loss to the government. In cases where the transportation bill is less than what should have been charged to the government, and there is no apparent reason for the undercharge, no action is taken and the bill paid "as is".

b. Rating and Routing

The rating and routing of freight are discussed concurrently since the two functions are dependent upon each other. "They are companion, at times indistinguishable, processes with circular impacts: a desired routing will influence the applicable rates, and the rate level will often dictate applicable routing" [Ref.27:p.29].

Rating is the process of determining the lowest applicable rate for a particular movement based on the carrier's rate structure, and then comparing this rate for all eligible carriers. Although this process can be very

cumbersome and complicated due to the many ways to rate a shipment and the large number of carriers in existence, MTMC has taken steps to simplify this process by using the standard tender and expanding the GT program. Presently, most of DOD's rating is done manually.

Routing is the process of determining which shipment mode to utilize and which carrier to select for a particular movement. Selection depends on the commodity being shipped, its weight, and if any special tenders, such as the GT program, apply. For general commodities moving under a standard tender, the ITO routes if the shipment is under 10,000 pounds, and if 10,000 pounds or over, the ITO goes to the appropriate MTMC area command for routing instructions.

[Ref.31]

As previously mentioned, the carrier is responsible for providing ITOs copies of their approved tender. When not covered under a negotiated rate, it is the responsibility of the ITO to select an eligible carrier with the lowest rates, which can perform all the requirements of the movement. When the ITO receives routing instructions from MTMC, it contains a primary least cost carrier and two alternate carriers. The ITO is responsible for contacting the primary carrier for the shipment. If, for some reason, the primary carrier cannot perform the movement, the ITO contacts the alternate carriers in order of least cost. As in rating, routing is primarily determined manually.

In the present post-audit mode, determination of whether the ITO or MTMC did in fact use the least cost carrier is not considered. Therefore, even though an audited bill contains no overcharge, the carrier selected for the movement might not have been the most cost-effective carrier. As will be discussed in a later section, a major requirement of MTMC's Conus Freight Management (CFM) System will be to rate and route all DOD domestic freight shipments in conjunction with the pre-payment audit.

c. Shipment Documents

Almost all DOD freight shipments are made on a Government Bill of Lading (GBL). The GBL serves as a contract between government shippers and commercial carriers, and contains information such as the name of the initial line-haul carrier, consignor, consignee, paying activity, description of the material being tendered, and other information. When a carrier picks up a shipment, the carrier is given the original and three copies of the GBL, a copy of the Shipping Order, the original Freight Waybill and the Carrier's Freight Waybill. On a single-linehaul, the carrier keeps the original GBL for payment purposes. On interline or intermodal movements, the original GBL is passed along to the last line-haul carrier authorized to bill for the charges. The ITO is responsible for the proper preparation and accountability of all GBLs. Except for DLA, GBLs are prepared manually in terms of data fields entry. [Ref.31]

Commercial Bills of Lading (CBLs) are seldom used by DOD shippers. The exceptions for using CBLs are, in most instances, for shipments under \$100 and small air shipments. Because of the costs involved in processing GBLs, DOD encourages shippers to use CBLs whenever possible.

The bill of lading is the only shipper-generated document that the carrier submits in the payment and audit cycle. In the present post-audit mode, the bill of lading is the source document from which the auditor determines if the charges, as billed by the carrier, are correct. In this regard, it is very important that ITOs prepare the bill of lading completely and correctly. Both GSA, during the post-audit process, and MTMC area commands conduct quality control reviews of bills of lading and should notify ITOs of apparent or recurring discrepancies in their preparation of the form.

Although this thesis is primarily concerned with freight bill auditing, it must be noted that passenger movement comprises a considerable amount of the total transportation budget for Federal agencies and that GSA is also responsible for the post-audits of these bills. In this regard, DOD, as well as all Federal civilian agencies, must adhere to established rules and regulations concerning the issuance, accountability and distributions of Government Transportation Requests (GTRs).

d. Billing and Payment

Carriers, moving freight for DOD, bill for the service with a Public Voucher for Transportation Charges, along with the original GBL or CBL. Within the DOD structure there are three paying activities for all freight bills: NAVMTO for Navy freight, USAFAC for Army, Air Force and DLA freight, and the Marine Corp Logistics Base (MCLB) for Marine freight. The carrier submits the voucher and GBL/CBL to one of the above bill paying centers as listed on the GBL/CBL.

Prior to any authorization to pre-audit, the transportation bill paying activities have always had the authority to conduct administrative pre-audits of all vouchers and accompanying GBLs/CBLs to ensure that the proper blocks and appropriate data were complete and correct. If there were any discrepancies, the bill paying activity would notify the carrier and/or ITO of the discrepancy and request resubmission of the appropriate forms. If the administrative audit revealed no discrepancies, the finance center would pay the carrier the amount on the voucher. The finance centers would transmit monthly to GSA's Office of Transportation Audits (OTA) all vouchers paid with the accompanying GBLs/CBLs. OTA would then conduct the post-payment audit to determine the accuracy of the paid vouchers.

2. General Services Administration

The General Services Administration's Office of Travel and Transportation Management provides overall policy

and guidance to over 50 Federal civilian agencies in the area of travel and transportation. Some of the larger civilian agencies, in terms of freight transportation costs, include the Department of Agriculture, the State Department, GSA, Department of the Interior, Department of Transportation, and the Treasury Department. 49 CFR 101-40 contains the rules and regulations covering the Federal civilian sector of travel and transportation management.

The GSA traffic management function can be described as more decentralized than that of DOD. GSA's Travel and Transportation office provides little more than overall policy on how the Federal civilian agencies should perform their transportation functions. Negotiations and liaison with carriers, administrative procedures, and operational support are, for the most part, managed by the five GSA regional offices. These regional offices are the main focal points for carriers wanting to conduct business with Federal agencies within those regions. Other Federal agencies, such as NASA and VA, have developed separate in-house traffic management systems due to unique shipping requirements. This Federal civilian traffic management system is also decentralized in terms of the less stringent rules and regulations to which individual agencies must adhere. Some reasons include smaller volumes of freight movement, less variations in the characteristics of the freight being moved, and willingness to conform to practices of commercial shippers. [Ref.27]

a. Tenders, Tariffs and Negotiated Rates

On the Federal civilian side, carriers submit tenders directly to the GSA regional offices. The traffic management branch of each region is responsible for the approval, distribution and maintenance of tender files applicable to that region. Each region submits one copy of the approved tender to the National Capital Region (NCR), which maintains the master tender file, and to GSA's Office of Transportation Audits (OTA).

Carriers submit their tender of rates to GSA on the Optional Form 280, Uniform Tender of Rates and/or Charges for Transportation Services. This tender form was previously utilized by DOD prior to implementing the DOD standard tender. According to GSA, the DOD standard tender is too complicated and does not suit the needs of GSA as effectively as the uniform tender. The rates on the uniform tender can either be expressed as a percentage of class 50 bureau class rates, cost per mile, or cents per hundred weight, depending on whether the movement is LTL or TL, interstate or intrastate. Rules and accessorial charges are assessed from either the applicable tariff bureau rules or as stated in an attachment to the tender.

Except in certain circumstances and for certain Federal agencies, the GSA regional offices administers all negotiated rate agreements. The regional offices have programs similar to the Guarantee Traffic program, but

because of the low volume of movement, most repetitive-type traffic moves under an SRO, or some form of SRO, that is unique to the movement. As an example, GSA Region 9 establishes an SRO for the nationwide movement of material originating from numerous locations of the National Industries for the Blind and National Industries for the Severely Handicapped to various GSA distribution centers [Ref.33].

b. Rating and Routing

The rating and routing of most Federal civilian freight, not covered under a negotiated agreement, is performed in an automated mode using the "Numerax" system. The Numerax system is an automated freight rate and routing system which GSA maintains through a yearly contract and is made available to any Federal agency. Through the Numerax system, individual Federal agencies can automate their own negotiated rates as well as access GSA's master tender and tariff files. [Ref.34]

Federal civilian agencies are required to obtain freight rate and routing services from the appropriate GSA region office for surface shipments over 10,000 pounds, or air shipments over 1,000 pounds. However, many agencies rate and route through GSA for most shipments, regardless of the mode or weight due to limited traffic management staff at the agency and the effectiveness of the Numerax system employed at GSA in reducing transportation costs.

c. Shipment Documents

Except for the distribution of copies of the bills of lading, the procedures and use of the GBL/CBL are consistent among Federal civilian agencies and DOD.

d. Billing and Payment

Whereas DOD has only three bill paying activities for transportation freight bills, each Federal civilian agency has its own accounting and disbursing system to handle transportation freight bills. As an example, GSA, as a shipper, submits all transportation bills to their central accounting and finance center in Kansas City for payment while NASA has eleven payment offices for transportation bills. The remainder of the billing and payment cycle is fairly standardized between the civilian and military agencies. [Ref.27]

B. ANALYSIS OF GSA'S POST-AUDIT FUNCTION

The General Services Administration's Office of Transportation Audits (OTA) is unique in that it is the only division within GSA that performs post-audits for all bills of a particular nature, i.e., transportation bills, that have been paid prior to an audit. During FY87, OTA received approximately 5.9 million transportation bills from over 600 government activities to be audited. Of these bills, 455,975 contained overcharges for a total of \$58,088 million [Ref.1].

Table I is a listing of data compiled by OTA of the overcharges and collections from FY82 through May, 1988 [Ref.1].

TABLE I

GSA'S OVERCHARGES AND COLLECTIONS DATA

<u>FY</u>	<u>NUMBER OF OVERCHARGES ISSUED</u>	<u>DOLLAR VALUE OF OVERCHARGES</u>	<u>TOTAL AMOUNT COLLECTED</u>
82	78,193	\$16,783,810	\$19,586,968
83	107,809	25,759,166	21,905,880
84	191,933	31,826,177	32,167,778
85	195,945	39,822,544	35,890,459
86	263,537	53,774,901	50,853,894
87	455,975	58,088,245	56,578,295
88*	355,229	39,360,154	35,727,319

* Through May 1988

The column "Number of Overcharges Issued" represents the number of bills containing overcharges from all bills audited during that FY. The column "Dollar Value of Overcharges" represents the monetary value of those overcharges issued that FY. The column "Total Amount Collected" represents overcharges collected from overcharges identified that FY plus the collection of overcharges identified in previous FYs. OTA indicated that the volume of transportation bills audited during the past 10 years have remained fairly constant. Data was requested by agency and service, but was not available.

As can be seen from the data in Table I, the number of overcharges issued and the dollar amount of those overcharges

have increased significantly since FY82. Part of that increase is due to the bills themselves and the fact that increased expenditures on transportation since FY82 (approximately 10%) would result in a proportional increase in the overcharges, all other factors equal. Another reason is the effect of deregulation. As discussed in Chapter IV, the proportion of overcharges in the shipping industry increased in the early years of deregulation and, at least in the commercial sector, leveled off. It is possible that for DOD transportation bills, it is still rising. A third reason, again discussed in a previous chapter, is that the government's practice of paying prior to an audit and the poor track record of GSA in taking decisive action against carriers that did overcharge promoted a continuance, and possible growth, of the practice.

The final reason can be attributed to GSA's initiatives since the early 1980's to improve its operation of OTA. This initiative is highlighted in the following [Ref.17:p.4]:

At the time of the 1975 transfer to GSA, GAO had as many as 1,200 employees performing transportation audit duties. They were identifying about \$12 million a year in overcharges. In 1981, GSA streamlined and automated its operation. Today, GSA has 187 professional and support staff members for this function. In 1983, it began expediting the audit process by using contract auditors.

The impact of using contract auditors by GSA has both advantages and disadvantages. One advantage is that it enhances the in-house audit capability of GSA by reducing the backlog of GSA audits, and provides an external source of

auditing that can easily expand or contract, based on volume. Another advantage is that the cost of contract audits is practically free unless an overcharge is identified. Finally, an inherent advantage for using contract auditors for post-audits is that the contractor has an incentive (percent of overcharges collected by GSA) for being very precise and detailed in identifying overcharges.

As for the disadvantages, GSA stated "At this moment, I can't think of any disadvantages of using contract auditors, because, basically, if they do not provide us with an identified overcharge and we collect that overcharge, then there are no commissions" [Ref.17:p.10]. The apparent meaning of this statement is that if the bill doesn't contain an overcharge, then the bill was audited for free. However, looking at the figures presented in Table I, the total amount of overcharges identified are quite significant, and any portion identified by the contract auditors equates to approximately 40% of those overcharges ending up in the auditors pockets. With GSA's increased reliance on contract auditors, it is estimated that the contract auditors will receive approximately \$20 million in commissions during FY88 [Ref.19:p.5]. On top of the approximately \$7.5 million that it costs to operate OTA per year [Ref.19], the bottom line figure is that the post-auditing function, as presently administered by GSA, is netting the government, after costs, approximately 50% of all overcharges collected.

Again, analyzing the data in Table I, a very pertinent question would be "Does the amount of overcharges identified in the GSA post-audit represent the true picture of what all government agencies actually pay in overcharges?" Unfortunately, the answer is NO! In a 16 June 1988 Congressional Hearing, a GAO auditor referring to the FY87 overcharge amount stated "My investigation for the subcommittee suggests, however, that \$58 million may be only a fraction of what is really out there and what the Government is being overcharged" [Ref.35:p.3].

One of the reasons is that GSA can only audit what it receives. The 16 June 1988 hearing brought out the fact that, although all government agencies are required to submit paid transportation bills monthly to GSA, some agencies are quite delinquent and some do not even send the required bills at all. Also adding to this problem is the fact that GSA has no working system of identifying agencies that do not comply with this requirement. The second major reason is that GSA receives many bills which are unauditable due to missing, incomplete or unreadable documents and/or data. And finally, GSA has no established, written guidelines for the conducting of an efficient and effective audit for its own personnel, and has provided contract auditors little guidance in terms of how to audit government bills and what constitutes an overcharge in certain controversial or difficult areas.

[Ref.35]

In other areas of GSA's performance of the post-audit function as administered by OTA, House Report 100-885 [Ref.19] found deficiencies in several areas, some of which were covered in Chapter III. These areas included the inability of OTA to follow-up on and collect overcharges, including interest, in a timely and accurate manner, the inability of GSA to provide adequate feedback to agencies, and the inadequacies of OTA's Transportation Accounts Receivable/Payable System (TARPS). TARPS is used to furnish information about the audit process in areas such as amounts identified as overcharges, accounts receivables, claims payable, and amounts collected. As stated in the report, the system is outdated, has inadequate storage capability and contractor support, is prone to breakdown, and generally inadequate in all areas.

House Report 100-885 not only looked at GSA's post-audit procedures but the government's audit responsibilities as a whole. In this regard, the report concluded with six recommendations as follows [Ref.19:p.14]:

1. That Government agencies, to the extent practicable, audit their transportation bills before payment, provided that such audits are cost-effective or otherwise in the public interest.
2. That such preaudits, conducted pursuant to GSA delegation, continue under overall GSA supervision.
3. That GSA, in delegating and overseeing preaudit operations, not unduly discourage such efforts, while assuring that all audits are productive and in the best interest of the government.

4. That GSA assist agencies lacking the traffic volume and expertise to conduct their own preaudits to perform such audits on a consolidated basis or through private contractors.
5. That GSA improve the effectiveness of its postpayment audits, particularly with respect to the timely receipt of auditable bills from the various agencies and its own debt collection practices.
6. That GSA formally report to the committee concerning its preaudit transportation delegation within 30 days following the close of the next 3 fiscal years. Each report should include information for each executive department and independent agency as to whether preaudit authority has been sought and the disposition of each request. Where no delegations were requested, GSA should report on its efforts to assist the department or agency in establishing preaudits.

C. ANALYSIS OF DOD'S INITIATIVES IN PRE-AUDITING

In a September 1988 report titled "Reducing Transportation Costs: A Report to the Defense Resources Board" [Ref.36], it was summarized that because of increased industrial fund transportation costs, a deficit approaching \$2 billion in DOD transportation funding is expected over the FY89-FY94 period. One of the current initiatives in the report that has the potential to substantially reduce DOD transportation costs is Prepayment Auditing. In addition, four other current initiatives were included in the report, two of them listed as an integral part of pre-payment auditing, that would help reduce and/or assist in identifying overcharges. These were listed as Guarantee Traffic, Electronic Data Interchange and Electronic Funds Transfer, CONUS Freight Management System, and Carrier

Qualification and Performance Programs. Three of these initiatives were directly discussed in previous chapters while the fourth, and last one, was indirectly addressed in various sections. Only the CONUS Freight Management (CFM) System initiative will be discussed later in this chapter.

In the Prepayment Auditing portion of the report, it was estimated that \$40 million could be saved annually if applied to all the Military Services. The \$40 million figure, although referenced from a June, 1988 hearing before Congress, first appeared in a September, 1986 Congressional hearing. In researching the validity of the original estimate, it appears that a simple assumption was made, that if approximately 80% of the total government's transportation costs were borne by DOD, then approximately 80% of the overcharges identified by GSA would therefore belong to DOD. This being the case, using the data in Table I and doing a simple estimation of the FY88 overcharges based on the data for two-thirds of FY88, the approximately \$60 million of overcharges in FY88 would equate to \$48 million ($\$60M \times .8$) of overcharges identified from DOD bills.

This \$48 million estimate for FY88 is most likely the minimum due to two reasons. First, GSA does not receive all bills that need to be audited from government agencies and all bills received cannot be audited due to various reasons as previously discussed in this chapter. Therefore, the overcharges identified in Table I were not from all

government transportation bills paid. Secondly, research was conducted to establish the overcharge rate in the commercial sector as a percentage of total transportation costs. The range of estimates were from a low of 1% to a high of 5%, with the majority in the 1.5%-2% range. Using the optimistic rate of 1% and applying it just to DOD's freight costs of approximately \$4.8 billion [Ref.36] for FY88, the optimistic figure for DOD overcharges is \$48 million ($\$4.8B \times .01$). And this does not include the expenditures and overcharges associated with the transportation of personnel!

In a September 26, 1988, memorandum to the Assistant Secretaries of the services, the Deputy Secretary of Defense delegated responsibility to the Assistant Secretary of Defense (Production and Logistics) for initiating a prepayment audit capability within DOD. The memorandum also delegated authority to the activities listed on page 37 of this thesis to "...proceed immediately to initiate a prepayment audit capability for all freight bills." in accordance with the provisions of 41 CFR, Sub-part 101-41 (in part, see Appendix B). In this endeavour, MTMC was directed to "...develop the necessary data bases containing the rates and charges required to support this audit" [Ref.37].

The Navy and Marine Corps finance centers were also directed to immediately audit international household goods bills using the system currently employed by USAFAC. This

system was mentioned in Chapter III and will be expanded upon in the following section.

1. Analysis of USAFAC's System to Audit ITGBLs

In March of 1987, the U.S. Army Finance and Accounting Center (USAFAC) began testing a system to pre-audit International Through GBLs for household goods (HHGs). This system operated in a test mode through 15 October, at which time the system was approved for operational use. Table II shows the data recorded on this system [Ref.38 & 39].

TABLE II

USAFAC'S ITGBL PRE-AUDIT DATA

<u>MONTH</u>	<u>VALUE OF OVERCHARGES</u>	<u>TOTAL \$ VALUE OF ITGBL's AUDITED</u>	<u>COST TO PERFORM AUDIT</u>
MAR 87	\$212,645.52	NOT RECORDED	NOT RECORDED
APR 87	\$272,063.33	NOT RECORDED	NOT RECORDED
MAY 87	\$162,166.87	NOT RECORDED	NOT RECORDED
JUN 87	\$155,820.35	NOT RECORDED	NOT RECORDED
JUL 87	\$ 46,232.11	NOT RECORDED	NOT RECORDED
AUG 87	\$ 32,699.24	NOT RECORDED	NOT RECORDED
SEP 87	\$ 24,679.83	NOT RECORDED	NOT RECORDED
OCT 87	\$ 12,896.52	\$16,100,042.57	NOT RECORDED
NOV 87	\$ 12,256.12	\$13,827,701.11	\$3,705.35
DEC 87	\$ 11,146.28	\$12,018,057.80	\$5,993.76
JAN 88	\$ 8,157.35	\$23,657,454.87	\$3,716.24
FEB 88	\$ 2,829.00	\$28,106,526.96	\$2,970.02
MAR 88	\$ 3,152.14	\$26,275,677.71	\$2,884.08
APR 88	\$ 9,013.41	\$20,316,475.45	\$2,535.08
MAY 88	\$ 6,396.79	\$22,704,754.01	\$1,941.02
JUN 88	\$ 32,350.16	\$32,107,437.10	\$3,736.54
JUL 88	\$ 15,094.67	\$41,008,933.40	\$3,211.49
AUG 88	\$ 9,976.23	\$51,018,418.73	\$3,963.55

As can be seen from the data in Table II, the amount of overcharges dramatically decreased once the carrier industry became aware of the program. Subsequently, when

NAVMTO conducted a test of this system on Navy ITGBLs, they found only 1 overcharge for the amount of \$27.50 out of approximately 250 bills audited [Ref.40].

For the first 10 full months that the system was operational, November, 1987 through August, 1988, \$110,732.15 in overcharges were detected/prevented from a total of \$261,041,437.10 of audited ITGBLs for a personnel and administrative cost of \$34,657.13. This equates to an identified overcharge rate of .041 percent, well below the commercial optimistic rate of 1 percent. The data also show that the savings from preventing over \$110K in additional payment was over three times as much as the costs incurred in detecting the overcharges.

The pre-audits, using the above system, are conducted in-house on local PCs. MTMC(HQ) provides an automated data base of HHG carriers' single factor (through) rates on tape, along with microfiche copies. The single factor (through) rates are negotiated every six months by MTMC(HQ) and based on dollars per hundred weight. The rates include packing, wrapping, crating and marking at both the point of origin and point of destination. When USAFAC receives an ITGBL and invoice for payment, their auditing personnel key in such data as the carrier's code, points of origin and destination, weight of the shipment, and the carrier's charges. The program automatically rates the shipment based on the carrier's rates in effect at the time of shipment. If the

program-generated charges are different than the carrier's charges, it automatically produces a notice of overcharge to the carrier (Appendix E). USAFAC then pays the carrier, based on the rates computed by the audit program. According to USAFAC, the system is designed to provide minimum manual intervention. Therefore, expertise in the rating of transportation bills is not required at the local level. The resources required to conduct this operation include eight Zenith PCs, two voucher examiners, two programmers (part-time), one control clerk and eight data transcribers [Ref.41].

Although this system is quite accurate, it does contain some limitations, and these limitations are currently being addressed at NAVMTO in their application of the program. The first one is that the system configuration at USAFAC does not have the storage capacity to hold the most recent six cycles of rates (three years) necessary for the audit function. This was initially a problem in that if a rate wasn't found in the system data base, USAFAC would have to pay the bill and then submit the appropriate documentation to GSA for audit. MTMC temporarily solved the problem by submitting to USAFAC a data base of rates from the most competitive carriers and one that would fit within USAFAC's storage capabilities. MTMC also submitted a complete copy of the six cycles of rates on microfiche. Thus, if a rate can't

be located within the automated system, a manual check of the microfiche and subsequent audit can be performed.

The second limitation is that the program does not audit all charges billed by the carrier. It only looks at the single factor rates to determine the correct line-haul charges. The program does not audit any accessorial charges such as storage, special handling, tools, etc. These charges are paid as billed, but are included in the GSA post-audit procedures.

2. Ongoing Initiatives Within DOD to Expand Pre-Auditing

The following is a summary of current and planned initiatives by MTMC, USAFAC, NAVMTO and MCLB in the area of pre-auditing. Because research for this thesis was conducted concurrently with DOD's planning and execution of pre-auditing, some of the information presented may be overcome by events or obsolete by the time of publication. In addition, only freight bill auditing will be discussed due to its monetary significance and current progress in this area. It is acknowledged, though, that substantial savings can be obtained by auditing GTRs and that this area of auditing cannot be overlooked.

a. Military Traffic Management Command

The Military Traffic Management Command (MTMC) has a direct, dual role in the pre-payment auditing function. At the headquarters level, MTMC is responsible for automating carrier rates for system-wide use. This automated rate base

is essentially Phase I of MTMC's CONUS Freight Management (CFM) system and is considered critical for any automated pre-audit system. The CFM system would serve as the DOD centralized automated freight rating and routing system to support the total traffic management function of CONUS freight traffic. As previously stated, MTMC has already automated the international HHG rates, and also those of domestic HHG carriers. MTMC expects complete automation of all freight rates early to mid 1989, with CFM fully operational by the end of 1993 [Ref.42:p.100]. Since all other planned automated systems will interface with the CFM system, and in particular with its rate data base for pre-auditing, any delays in MTMC's system will have a domino effect on all other planned systems.

In addition to automating freight rates, MTMC also has the delegated authority to perform pre-audits, even though MTMC is not a transportation bill paying activity. This function will be performed by MTMC Eastern Area (EA) and will apply to all GBLs over \$10K from all services, and bills relating to Guaranteed Traffic movements from DLA. MTMC estimates that high value GBLs (+10K) generated by DOD activities are approximately \$150 million a year. The current plan is to have MTMC(EA) manually audit these bills in-house until an automated system can be developed.

b. U.S. Army Finance and Accounting Center

The U.S. Army Finance and Accounting Center (USAFAC) is responsible for, among other things, the payment of all Army, Air Force and Defense Logistics Agency (DLA) transportation bills, which accounts for approximately 80% of the total for DOD. Unlike MTMC, NAVMTO and MCLB, USAFAC strictly performs accounting and finance functions. It does not get involved in any type of transportation management policy or assistance with traffic related operations.

It was USAFAC who took the lead roll in developing and implementing a program to pre-audit ITGBLs for HHGs and is currently modifying this program to pre-audit domestic HHGs. USAFAC estimates that the domestic HHG program will be operational in the February-March 1988 timeframe.

In the area of automation, USAFAC is currently working with McDonnell-Douglas on an automated freight and passenger bill audit, paying and accounting system. This system will interface with MTMC's CFM system and take full advantage of EDI and EFT technology. This system is expected to be operational during FY91. In the interim, USAFAC plans on conducting manual freight audits to commence in early 1989 while concurrently developing in-house an automated freight audit program which is predicated on MTMC's efforts to develop an automated freight rate data base. Implementation of this program is expected in late 1989 or early 1990.

c. Navy Material Transportation Office

The Navy Material Transportation Office (NAVMTO) is the Navy's transportation manager, providing operational and administrative support to Navy transportation management. Two of its many functions include the payment of all Navy bills of lading for freight shipment and all Navy transportation requests for passenger movement. During FY87, NAVMTO disbursed approximately \$372 million in GBL/CBL payments and \$220 million in GTR payments [Ref.43]. This accounts for approximately 15% of the DOD total.

Effective 1 October, 1988, NAVMTO implemented pre-auditing of ITGBLs for international HHGs using the program developed by USAFAC. For domestic HHG and freight, NAVMTO drafted a contract proposal which would let contractors bid on either the audit of domestic HHGs or freight. If USAFAC develops a domestic HHG program prior to contract award, NAVMTO will just contract out for the freight portion, provided that the domestic program is adequate for their needs. The terms of the proposal include a firm fixed price per GBL audited and a start date of 1 April, 1989, or date of award, whichever is later. The proposed initial contract is to run through 30 September 1989, with two one-year options. NAVMTO also plans on conducting certain audits in-house as well as conducting quality control audits on bills audited by the contractor(s). The contract audit is estimated to require 13 additional personnel at NAVMTO for

administration and monitoring of the contractor(s). The in-house audits for ITGBLs required five additional personnel plus the expenditure of \$30K for PCs [Ref.44]. NAVSUP estimates that it will avoid the payment of approximately \$7.8 million per year in overcharges by pre-auditing GBLs [Ref.44].

In the area of automation, NAVMTO is developing a system called "NAVMTO Operations and Management Information System (NAOMIS)". NAOMIS is designed to automate the transportation payment, air clearance, material tracing, entitlement audits on HHGs moves, and transportation management functions. Pre-auditing will be an integral part of the transportation payment function which will take advantage of EDI and EFT technology. NAOMIS is scheduled for implementation in the early 1990's. [Ref.45:p.27]

d. Marine Corps Logistics Base

The Marine Corps Logistics Base (MCLB), Albany, Georgia is responsible for, among other logistical functions, the paying of all Marine Corps transportation bills through its Transportation Voucher Certification Branch (TVCB). This amounts to approximately \$265 million a year in paid transportation bills, about 5% of the DOD total. As of late June, 1988, MCLB Albany began pre-auditing ITGBLs using the program developed by USAFAC. Because of the relatively small numbers of ITGBLs, they implemented the program using existing personnel and the purchase of four PCs. From

implementation through 30 September, 1988, 2,908 ITGBLs were audited with about \$300 identified as overcharges [Ref.46].

For domestic HHGs, MCLB Albany will utilize the program presently being developed by USAFAC. For freight bills, they are presently working on numerous systems which will incorporate a pre-audit capability. The first system will pre-audit freight bills transmitted via EDI technology from shipments under their Guaranteed Freight program. The first documents transmitted under this test program using EDI is expected in late October 1988, with full implementation by year end. The second system is similar except that it involves the use of EDI technology in rail shipments and payment via EFT. The first test of this system is scheduled for December, 1988. The final system called the "Traffic Management System (TMS)" will automate the functions of the Traffic Management Offices (TMO) and the certification functions of the Transportation Voucher Certification Branch (TVCB), giving MCLB Albany the capability to pre-audit all Marine Corps GBLs. The scheduled start-up date for this system is planned for mid to late 1989.

VI. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

A. SUMMARY

The auditing of transportation bills is not new, but recent technological, governmental, and economic conditions have changed the ways in which shippers view the importance of this function and, subsequently, the ways in which to perform it. The government, since 1940, has decreed that it is more important to pay its transportation bill promptly than to delay payment in order to ensure the accuracy of the bill. This "pay now - audit later" procedure may have been appropriate at the time, but in this era of automation, competition and scarce funding, accurate and prompt pre-auditing is not only possible, but makes "good business sense".

The commercial sector has realized the importance of managing transportation costs and in many instances has begun pre-auditing transportation bills, along with implementing other transportation management initiatives. The government has also realized the importance of efficiently managing public funds used for transporting government material and personnel, which led to the passage of Public Law 99-627 in November of 1986. For DOD, in particular, this law gave them authority to stop the substantial overcharges that they historically paid by pre-auditing all their transportation bills.

Because of bureaucratic inertia and conflicts with other governmental agencies, it took DOD nearly 20 months to get final approval to conduct pre-audits. With its new authority, DOD is currently forging ahead with initiatives to fully implement pre-auditing, at least for freight, by the end of 1989. Because of a provision in P.L. 99-627 which puts all funds recovered by GSA post-audits into the U.S. Treasury instead of the budgets of the individual agencies, DOD has already forfeited tens of millions of dollars since November, 1986, and cannot afford to delay in any pre-auditing endeavors.

B. CONCLUSIONS

The present GSA post-audit system, although it has identified and collected substantial carrier overcharges in recent years, is not capturing all the possible overcharges and is not effective in the prevention of overcharges. Prevention can only be accomplished by having the bill-paying activities identify and not pay the overcharges. This thesis concludes that DOD is paying a minimum of \$48 million a year in overcharges on freight alone. A more accurate estimate is not available due to lack of adequate data collection, management reporting, and agency inputs to GSA. This author suggests that if passenger bills were included, the overcharges could approach \$60 million a year.

Any avenue taken by DOD in pre-auditing, whether it be in-house or contracted out, manual or automated, should provide substantial savings to DOD. This has been shown to be the case in the commercial sector, and commercially available assets do exist which can be of benefit to DOD in performing this function. Initially, a substantial amount of overcharges should be detected and subsequently deducted from the carriers payment. Over time, the detected overcharges will decrease once carriers become aware of the pre-audit efforts and take steps to reduce their error rates. This was shown with the data in Table II. It is possible that over time, the cost to administer and conduct any pre-audit will be more than the overcharges detected. In this situation, the savings will not be in the actual dollar amount of the overcharges detected but in the potential overcharges deflected from the total DOD transportation bill.

C. RECOMMENDATIONS

Many apparent and not so apparent recommendations that one could make concerning DOD's initiatives in this area are already in the planning and implementation stages at various activities. The following are specific recommendations based on the research conducted and areas that may be of future consideration.

1. That a steering group or committee of key players involved from MTMC, USAFAC, NAVMTO and MCLB Albany be formed and meet regularly to exchange ideas, initiatives, pros and cons of existing systems, etc., concerning pre-auditing.

2. That commercial carriers, either individually or as represented by associations, be involved in or at least informed of current and planned initiatives. In some areas, their assistance, cooperation or experience may be of help in developing an effective pre-audit system.
3. That the primary measure of effectiveness of any pre-audit program be based not on a monetary value but as a percentage of the dollar value of overcharges detected to the total dollar amount of bills audited. An effective pre-audit program should reduce this percentage based on efforts taken to correct the reasons for the overcharges (see recommendation #4).
4. That overcharges identified be categorized as either shipper caused or carrier caused, and that a system be established to promptly identify and inform either the carrier or the ITO of the error, the steps needed to correct the error, and the consequences of not correcting the errors.

APPENDIX A

PUBLIC LAW 99-627

110 STAT. 3508

PUBLIC LAW 99-627—NOV. 7, 1986

Public Law 99-627,
99th Congress

An Act

Nov 7, 1986
[H.R. 5420]

To amend section 3726 of title 31, United States Code, relating to payment for transportation, to permit prepayment audits for selected transportation bills, to permanently authorize payment of transportation audit contractors from carrier overpayments collected, to authorize net overpayments collected to be transferred to the Treasury, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3726 of title 31, United States Code, is amended—

Regulations.

- (1) in subsection (a) by striking out the first sentence and insert in lieu thereof the following: "A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe.";
- (2) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively; and
- (3) by inserting after subsection (b) the following new subsections:

Contracts.

"(c) Expenses of transportation audit contracts and contract administration shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds at not to exceed 40 percent of such collections annually. Payment to any contractor shall not exceed 50 percent of the overpayments identified by any contract audit.

Contracts.

"(d) At least annually, and as determined by the Administrator, after making adequate provision for expenses of refunds to carriers, transportation audit contracts, and contract administration authorized in subsection (c), the balance of the overpayments collected by the General Services Administration shall be transferred to miscellaneous receipt of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.

Reports

"(e) The Administrator may delegate any authority conferred by this section to another agency or agencies if the Administrator determines that such a delegation would be cost-effective or otherwise in the public interest."

31 USC 3726
note

Sec. 2. (a) Within 60 days after the date of enactment of this Act, the Administrator of General Services shall establish a task force to study and investigate the feasibility, desirability, and economy of an integrated, automated system that Federal agencies may use in managing the transportation of property for the United States.

(b) The task force established under subsection (a) shall—

- (1) be chaired by a representative of the Administrator;
- (2) include representatives of the Department of Defense and other Federal agencies significantly involved in the transportation of property for the United States; and

(3) solicit the views of private businesses with expertise in the matters being considered by the task force.

Business and
industry.

(c) In studying and investigating the integrated, automated system, the task force shall consider including in that system such elements as automated routing, rating, documentation, payment, and auditing.

(d) Each department, agency, and instrumentality of the Federal Government shall furnish to the task force, upon its request, such data, reports, and other information (not otherwise prohibited by law) as the task force deems necessary to carry out its functions under this section.

(e) The head of each such department, agency, and instrumentality may provide to the task force such services and personnel as the task force requests on such basis (reimbursable or otherwise) as may be agreed upon between such department, agency, or instrumentality and the task force.

Reports.

(f) The task force shall submit a final report on the results of its study and investigation to the Congress not later than July 1, 1988.

Imports.

SEC. 3. (a) Section 402(a)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 512(a)(1)) is amended by striking out “; but in no event shall any property be sold without a condition forbidding its importation into the United States, unless the Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods) or the Secretary of Commerce (in the case of any other property) determines that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country”.

(b) Applications pending before the Secretary of Commerce or the Secretary of Agriculture on, or received after, the date of enactment of this Act for authorization to import property under section 402(a)(1) of the Federal Property and Administrative Services Act of 1949 shall be returned without action, and applicants shall be informed in writing that authorization is no longer required after such date.

40 USC 512 note.

(c) The amendment made by subsection (a) shall not affect any civil or criminal proceeding instituted by the United States prior to the date of enactment of this Act.

40 USC 512 note.

Approved November 7, 1986.

LEGISLATIVE HISTORY—H.R. 5420 (S. 2630):

HOUSE REPORTS: No. 99-932 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 132 (1986):

Oct. 6, considered and passed House.
Oct. 18, considered and passed Senate.

○

APPENDIX B

SECTION 101-41.103

4. Section 101-41.103 is added to read as follows:

§ 101-41.103 Procedures, conditions, and limitations relevant to the delegation of authority to perform prepayment audits of selected transportation bills.

(a) Except for the authority exercised by GSA in § 101-41.103(i), requests for a delegation of authority from the Administrator of General Services to conduct prepayment audits shall be accompanied by a specific and complete description of the organization to perform the audit and the manner whereby the audit will be conducted. Such requests shall demonstrate cost-effectiveness or other public benefits.

(b) Prepayment audits by GSA's Office of Transportation Audits on behalf of itself and/or other agencies, need not be approved by the Administrator because the authority to conduct prepayment audits is already provided by law.

(c) Each request shall include a detailed model of the audit process from

receipt of carrier bills to disbursement and the subsequent submission of paid vouchers to GSA for postpayment audit.

(d) The requester shall demonstrate the capability not only to complete an accurate audit within 15 calendar days of receipt of a carrier's bill, but also evidence the ability to generate an accurate notice to the carrier which specifically describes the reason for any full or partial rejection of the carrier's charges, citing the rate authority applicable thereto.

(e) The request shall contain a mechanism to report savings, on a monthly basis and in a manner acceptable to GSA, accomplished by identifying overcharges/overbillings through prepayment audit.

(f) Public notice of delegated authorities will be effected by publication in the Federal Register notices section. Such notices will specify the Government department/agency whose bills are subject to such audit and the organization or command; i.e., the activity which will conduct such audits.

(g) Authority delegated in accordance with this section is subject to complete oversight by GSA. This oversight and a test of accuracy will be made through the postpayment audit process and through onsite inspection. To assist in this process, prepayment audit activities (and/or their contractors) are required to stamp each bill so audited with a certification substantially as follows: "I certify that this bill was audited and certified for payment in the amount of \$ ____." The stamp will also indicate both the name of the audit activity and the name of any contractor involved, and be initialed and dated by the auditor. Paid bills that were subject to prepayment audit must be forwarded to GSA, Attn: FWA (Code PA), under separate cover.

(h) Except as provided in § 101-41.604-2, when a prepayment audit results in a reduction to a properly presented invoice, interest penalties will be paid if required by the Prompt Payment Act. The designee must approve for payment the amount claimed by the carrier, reduced only by the amount disputed on prepayment audit, or otherwise allowed to be withheld by law or regulation.

(i) *Unpaid bills.* (1) Notwithstanding any other provision herein, GSA may request that agencies forward unpaid transportation bills approved for payment after prepayment audit by a designee agency (if any), in lieu of payment to the carrier/forwarder, in order to adequately protect the Government's right to setoff or where

the best interests of the Government so require.

(2) These unpaid bills shall be audited only to the extent necessary to prevent excess billings and to adequately protect the Government's right to setoff for identified and projected overpayments, and for known debts owed to other agencies.

(3) Consistent with the purpose of paragraphs (i) (1) and (2) of this section, GSA may conduct a prepayment audit of carrier bills in the following circumstances:

(i) The carrier/forwarder is involved in a proceeding under the Bankruptcy Code as a debtor or possible debtor, or is subject to the control of a receiver, trustee, or other similar representative;

(ii) The carrier/forwarder consistently fails to refund overcharges without assertion of substantial defense or other valid reasons when notified by GSA or any other interested Government agency;

(iii) The carrier/forwarder, without good cause, fails to make timely disposition or settlement of loss or damage or other claims asserted by agencies of the United States;

(iv) The carrier/forwarder owes substantial sums of money to the United States for which no adequate arrangements for settlement have been made;

(v) The carrier/forwarder, as a person or business entity, was determined administratively for valid reasons to be ineligible for payment, unless after review of the facts and in the absence of objection by the U.S. General Accounting Office, it is determined administratively that the best interests of the United States will not be jeopardized by such payment;

(vi) The carrier/forwarder voluntarily withdraws or is otherwise involuntarily terminated from an agency-wide transportation program; or

(vii) Any other circumstances where a reasonable person, in the exercise of ordinary prudence, would conclude that the carrier/forwarder is in such financial condition that its ability to pay debts owed to the Government is questionable.

(4) Carriers/forwarders subject to prepayment audit by GSA for the reasons outlined in § 101-41.103(i)(3), may offer substitute arrangements to adequately protect the Government's right to setoff in consideration for the avoidance of prepayment audit and/or a release of funds deemed adequate by the Government to pursue its right of setoff.

(5) The exercise of actual setoff shall

be conducted in accordance with the law.

(j) All forms used by the designee or its audit activity in performing the prepayment audit must be approved by GSA (attn: FWC) prior to usage, and no rules or procedures relative to the prepayment audit may be published by them without GSA approval.

(k) The designee and any audit activity under him/her is required to follow Comptroller General decisions and Federal Property Management Regulations, instructions, and precedents regarding substantive and procedural matters.

(l) The designee may utilize contractors to accomplish the prepayment audit, but contractors are subject to all of the requirements that apply to the designee and his/her audit activity.

(m) Except as provided for GSA in § 101-41.103(i), prepayment audit authority exercised under this paragraph will not be directed to a particular carrier but may be directed toward specific types or categories of bills or exercised in some other nondiscriminatory manner.

(n) GSA will exercise continuous oversight of the delegated prepayment audit authority. A delegation of authority to conduct a prepayment audit may be suspended in whole or in part by the Director, Office of Transportation Audits for failure to properly conduct prepayment audits. Such failures may include any of the following:

(1) Failure to conduct an accurate audit (not less than 85 percent accuracy).

(2) A pattern of failure to make timely payments, or failure to inform carriers within 15 days of defective invoices (Prompt Payment Act time limitations).

(3) Audit not cost-effective, i.e., where the cost of the audit exceeds the benefits derived.

(4) Failure to adjudicate carriers' claims disputing prepayment audit positions of the designee agency within 30 days of receipt.

(5) Failure of the designee, or any audit authority under it to follow Comptroller General decisions, Federal Property Management Regulations, and instructions, or precedents regarding substantive and procedural matters.

(6) Failure to provide information/data, or to cooperate in onsite inspections, necessary to analyze cost-effectiveness or to conduct a quality assurance review.

APPENDIX C

COMMENTS OF THE AMERICAN TRUCKING ASSOCIATION

Before the
GENERAL SERVICES ADMINISTRATION

FEBRUARY 22, 1988
WASHINGTON, DC

41 CFR PART 101-41

PREPAYMENT TRANSPORTATION AUDIT PROCEDURES

Comments of
AMERICAN TRUCKING ASSOCIATIONS

Kenneth E. Siegel
Associate General Counsel



BEFORE THE
GENERAL SERVICES ADMINISTRATION

41 CFR PART 101-41
PREPAYMENT TRANSPORTATION AUDIT PROCEDURES

COMMENTS OF THE
AMERICAN TRUCKING ASSOCIATIONS

I. INTRODUCTION

The American Trucking Associations (ATA) files these comments in response to the Notice Of Proposed Rule published by the General Services Administration ("GSA") in the December 23, 1987 Federal Register (52 FR 48547) on Prepayment Transportation Audit Procedures. GSA proposes to adopt rules amending the Federal Property Management Regulation for the purpose of implementing Pub. L. 99-827 and to prescribe procedures, conditions and limitations relevant to any delegation of authority to another federal agency for the purpose of conducting prepayment audits. ATA makes the following suggestions on how GSA can improve its proposed rules and the efficiency and fairness of the prepayment audit program.

II. IDENTITY OF COMMENTATOR

ATA is the national trade association of the trucking industry. Through it 51 affiliated state trucking associations, located in every state and the District of Columbia, 10 affiliated conferences, and over four thousand individual motor carrier members, ATA represents every type and class of motor carrier in the country.

As the association representing the trucking industry, ATA has an interest in GSA's preaudit rules and regulations. ATA urges the GSA to seek the most efficient, effective and fairest means of implementing the prepayment audit program.

III. GSA SHOULD NOT DELEGATE ITS AUDIT AUTHORITY

The proposed rules provide that other government agencies may submit requests to GSA for a delegation of prepayment audit authority, Proposed Rule 101-41.103(a). The proposed rules at 101-41.103(b) also provide that GSA or an agency to which it has delegated its audit authority may utilize contractors to accomplish the prepayment audit. ATA urges GSA not to delegate its prepayment audit authority to other federal agencies and to be highly selective in its selection of contractors.

Congress authorized the delegation by GSA of its prepayment audit authority only when delegation would be

"cost-effective or otherwise in the public interest," 31 U.S.C. § 3726(c). Although the Notice indicates that GSA has already concluded that all such delegations would be cost effective, there is no explanation offered in the Notice as to what GSA's conclusion is based on.

ATA questions as to whether the delegation of audit authority would, in fact, be cost effective or in the public interest. An agency requesting a delegation of audit authority should be made to justify why it is necessary for it to conduct its own prepayment audits. This justification and the agency's proposed program should be published for public comment. Individual agency audit programs will result in duplication of expenses and personnel. A more effective and efficient method of meeting the prepayment audit needs of individual agencies would be the adoption of procedures which enable any agency to request GSA to perform prepayment audits on specified carriers or types of shipments.

GSA's postpayment audit program has been very effective in discovering and collecting overcharges. The Notice indicates that GSA identified nearly \$51 million in overcharges last year. Pursuant to the provisions of the Debt Collection Act, carriers were required to pay the government interest on these overcharges. The only time the postpayment audit program would not be effective in making the government whole would be in the few instances that a carrier has ceased operations prior to the audit.

The Notice indicates that GSA does not intend to cut back on its postpayment audit program and that, in fact, those bills audited prior to payment will be reaudited by GSA in a postpayment audit. Thus, a proliferation of prepayment audit programs throughout the government will result in duplication of programs, personnel and a corresponding increase in government costs and expenses. GSA will also incur the additional expense of auditing and policing the individual programs and contract auditors.

If the audit is contracted for, the cost effectiveness of the program is dramatically reduced. Section 3726(c), 31 U.S.C. § 3762(c), provides that a contractor may be paid up to 50 percent of overpayments identified by such audits. In the postpayment audit program, the government receives the full amount of the overcharge, plus interest. Under a prepayment audit program, the government's savings are reduced by as much 50 percent.^{1/}

The prepayment audit program will also result in additional costs to the government under the provisions of the Prompt Payment and Contract Disputes Acts. When payment to a carrier is delayed as a result of a prepayment audit, a carrier is entitled to interest under the Prompt Payment Act.

^{1/} It should be remembered that in prepayment audit programs, the overcharge is never paid and, thus, there is no amount to be collected from the carrier from which the payment to the contractor can be taken. The payment to the contract auditor is based on the government savings and must be taken from the agency's funds.

Further, if any agency wrongfully withholds payment of monies lawfully due a carrier as a result of an audit claim, the carrier is entitled to interest under the Contract Disputes Act.^{2/} Delays in payment and erroneous deductions will be unavoidable under audit programs under the proposed rules, thus increasing the cost of such programs to the government.

One partial solution to this problem would be to require the delegated agency or contractor to pay the interest to carriers when payment is late or an overcharge claim proves to be wrong. Under the proposed rules, a contract auditor will suffer no penalty for making unsubstantiated overcharge claims. The proposed rules actually encourage false claims by contract auditors by compensating them based on a percent of overcharges discovered and allowing them to remain free from penalty in the event of mistake or carelessness on their part. The auditor, thus, suffers no penalty for making unsubstantiated claims.

The cost of such claims will be borne by the government, which will be required to pay the carrier interest, and the carrier which will not receive timely payment of its lawful charges and which will bear the administrative cost of researching and appealing the unsubstantiated claim. If the contractor is made responsible for any interest due the

^{2/} The proposed rules do not fully or clearly set out a carrier's right to interest in such circumstances. The proposed rules should be clarified on these points.

carrier because of late payment or wrongful withholding of monies lawfully due the carrier, he will be more careful and faster in performing audits.

Finally, the more individual agency prepayment audit programs authorized by GSA, the more confusing it will be for carriers. A carrier may deal with several agencies, all having their own individual forms, rules, etc., thus making it more confusing and expensive for the carrier to deal with the government.

The postpayment audit program has been successful in discovering and collecting transportation overcharges to the government. The prepayment audit program will be more expensive and will be duplicative of GSA's existing audit program. The use of outside auditors will reduce even more, by as much as 50 percent, the amount saved or recovered by the government and will incur increased interest expense under the Prompt Payment and Contract Dispute Acts. Thus, the cost effectiveness of the prepayment audit program is highly questionable and becomes even more doubtful if delegated to other federal agencies or contract auditors.

IV. THE RULES SHOULD SPECIFY HOW GOVERNMENT BILLS OF LADING WILL BE SELECTED FOR PREPAYMENT AUDIT

GSA states that it intends to limit the exercise of "its prepayment audit authority primarily [to] those selected instances where the failure to do so may prevent the

Government from subsequently collecting overcharges" and "over selected bills on behalf of itself and other individual agencies," 52 FR at 48548. ATA believes, considering the number of Government Bills of Lading ("GBL") and the complexity of a freight audit, that this limited exercise of its power is a realistic approach to the exercise of GSA's prepayment audit authority. ATA urges the agency, however, to set out more specifically in the rules what factors it will consider in determining when a carrier will be placed on a prepayment audit list. Factors such as a carrier's record of overcharging and its status as a bankrupt should be considered in determining whether to place a carrier on a preaudit list. Carriers without a history of such overcharges should not be placed on the list. The rules should also state what remedial actions will be required of a carrier to have itself removed from the list, i.e.: improvement of its billing practices.

The application of these factors should be uniform throughout the government and should apply to the selection of GBLs or carriers for prepayment auditing by other federal agencies. Any agency which requests authority from GSA under the proposed rules should be required to apply the GSA standards. Many motor carriers provide service for more than one federal department or agency. A carrier should be subject to the same standards no matter what agency it is serving, whether civilian or military. The only way this uniformity can be assured is the publication of such standards by GSA.

V. SPECIFIC STANDARDS SHOULD BE PROMULGATED
FOR INDEPENDENT CONTRACTORS AND OTHER
GOVERNMENT AGENCIES

There is also a need for the adoption of standards for the conducting of a prepayment transportation audit by outside consultants or individual federal agencies. The GSA proposal puts forth the general principles of efficiency and accuracy in prepayment audits, but does not set specific standards. GSA should develop standards on the conduct of a transportation audit and include them in the final rules. In selecting contract auditors, GSA should require the prospective contractor to demonstrate a history of both accuracy and speed in conducting freight audits. Auditors should be required to demonstrate their knowledge of carrier freight rates and experience in conducting transportation audits, before being authorized to conduct such audits for GSA or other federal agency. A summary of their audit experience, including their accuracy rate, for both the contract entity and the individuals who will be doing the audits, should be required. Further, in order to prevent baseless overcharge claims, a contract auditor, if selected, should be required to maintain a 90% or greater rate of accuracy on audits.

The same standards which apply to contract auditors should also be applied to other government agencies which seek authority to develop their own prepayment audit programs.

VI. FEDERAL LAW DOES NOT ALLOW GSA TO
WITHHOLD PAYMENT FROM A CARRIER SOLELY
BECAUSE IT IS FINANCIALLY WEAK

Proposed Rule 101-41.103(i) states that GSA may request that amounts approved for payment to a carrier, which is bankrupt or "is otherwise in such economic condition that its ability to pay debts owing to the Government is questionable," be remitted to GSA instead of the carrier. This rule is beyond GSA's statutory authority. GSA does have the authority to set-off amounts due a carrier against debts owed by a carrier to the government. See 31 U.S.C. § 3726. The proposed rule, however, does not limit the withholding of money lawfully due a carrier to this purpose. GSA does not have the authority to arbitrarily withhold payment from a carrier of its lawfully due charges merely because the carrier is in poor financial condition. If the rule is intended to apply to GSA's set-off procedures, it should be revised to so indicate.

It may be easy to determine when a carrier is in bankruptcy, but what standards will GSA use to determine when a carrier "is otherwise in such economic conditions that its ability to pay . . . is questionable"? On what sources of information does GSA intend to rely when making this highly subjective determination? These sources and standards should be stated in the rules. Irrespective of what standards or sources GSA intends to use in making this determination, Congress has not created an exception based on the contractors'

financial condition, to the requirements to pay contractors promptly.

VII. AUDITORS SHOULD BE REQUIRED TO
INFORM CARRIERS OF THE PROCEDURES
FOR APPEALING OVERCHARGE CLAIMS


The proposed rules (101-41.60-2) require that every agency to which GSA delegates audit authority must have procedures for handling carrier appeals of overcharge claims. According to the proposed rule, if a carrier is dissatisfied with the agency's final decision, it is to have the right to appeal that decision to GSA. First, the rules should require the auditor conducting a prepayment audit, whether a contractor, federal agency, or GSA, to notify a carrier in writing of its rights and the procedures for appealing an overcharge claim with each claim made by the auditor. Further, the proposed rule and notice should also inform the carrier as to what its rights and options are if it is not satisfied with GSA's final decision. A dispute on a contract claim is subject to the provisions of the Contract Disputes Act and the procedures for appealing a decision of a contracting officer (i.e.: a designated agency) under that Act are found at 41 U.S.C. § 609. These rights include an appeal of the auditor's decision directly to the United States Claims Court. A statement of these rights should be included in GSA's rules and the overcharge claim notice.

CONCLUSION

For the foregoing reasons, ATA does not believe that the delegation of prepayment audit authority would be either cost effective or in the public interest. The delegation of GSA's authority would result in a substantial loss of revenues and increased expenses for the United States. Should GSA decide to delegate its audit authority anyway, ATA urges the agency to adopt strict standards to be applied to the selection and review of both contract auditors and agencies.

The proposed rules need clarified as to: the standards to be applied as to when a carrier will be put on a prepayment audit list; when a carrier is entitled to interest for a late payment of charges and who shall be responsible for making such payment; and a carrier's rights on appeal from a decision of the auditing agency. Further, GSA should clarify its rule as to when and why it will withhold lawfully due payment from a carrier and what sources and standards it will use in making such a determination.

Respectfully submitted,



AMERICAN TRUCKING ASSOCIATIONS,
INC.

By: Kenneth E. Siegel
Associate General Counsel
2200 Mill Road
Alexandria, VA 22314
(703) 838-1857

Dated: February 22, 1988

APPENDIX D

CAUSES OF FREIGHT BILL OVERCHARGES

The following information is provided by Mr. George Bacon, President, Traffic Service Bureau, as part of the author's inquiry of commercial transportation bill audit firms.

FREIGHT BILL OVERCHARGES -

HOW THEY ARE CREATED

There are many ways a shipper can create overcharges due to his own errors. These will vary with the type of industry, as some firms have different traffic, packing, accounting and shipping problems than others. However, here are just a few of the most frequent errors common to most shippers.

1. Error in description of the product
2. Incomplete description
3. Error in weight of product
4. Error in extension
5. Duplicate payments
6. Shipped prepaid instead of collect
7. Not declaring released valuation of articles
8. Paying full rate on returned goods
9. Paying penalty for wrong package description
10. Paying a penalty for poor packing

An interesting question is how many mistakes a carrier can make which results in overcharges. There are about 25 different mistakes they can make. Here are ten of the most frequent.

1. Transcribing wrong weight, description or figures
2. Applying a higher rate than applicable
3. Failure to deduct weight of dunnage from total weight
4. Failure to subtract weight of pallets when they should ride free
5. Failure to mark freight bill prepaid instead of collect
6. Duplicate billing by carrier even though he belongs to a payment plan
7. Failure to pay the shipper the COD charges
8. Failure to apply special rates available as requested on bill of lading by shipper
9. Charging for a free astray shipment
10. Failure to apply intermediate rates or combination rates when applicable

APPENDIX E

SAMPLE CARRIER ADJUSTMENT LETTER

GENERAL SERVICES ADMINISTRATION
Prepayment Audit Unit
c/o Transportation Operations
U.S. Army Finance and Accounting Center
Indianapolis, IN 46249-0601

September 19 1988

Subject: Adjustment to Carrier Billing

AFI/PASHA WORLDWIDE FORWARDERS INC
5725 PARADISE DR
SUITE 500
CORTE MADERA, CA 94925-

The attached bill has been pre-audited using an automated billing rate/amount comparison to Military Traffic Management Command approved rates for the code of service provided. The rate comparison is indicated below:

SCAC AFIW	GBL # RP-009,437	or CARRIER BILL #
ORIGIN CODE US38	ILL	SHIPMENT CLASS 5
DEST CODE TU	TURKY	VOLUME 56
WEIGHT OF SHIPMENT	5620	

AUTHORIZED RATE	60.18	BILLED RATE	108.67
AMOUNT BILLED REDUCED BY	\$\$2725.14		
AUTHORIZED AMOUNT OF PAYMENT	\$\$\$\$\$3382.12		

The amount of your voucher has been adjusted to the authorized charges indicated above. If you disagree with this payment, you must provide evidence that the authorized rate is incorrect.

If there are further questions concerning this bill, please reply to USAFAC, Transportation Operations, C&E Division, ATTN; FINCH-GFC, Indianapolis, IN 46249-0611 or call Commercial (317) 542-2528.

WILLIAM W. GALFORD
Director
Transportation Operations

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